

FRANCO-AMERICAN
Diplomatic Relations

1816-1836

BY
RICHARD AUBREY
McLEMORE

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PREFACE

This study traces the development of an aggressive nationalism in American diplomacy from 1816 to 1836. At the close of the war of 1812, the aggressive policy of the United States with regard to foreign affairs passed into a temporary eclipse. The reappearance of this national sentiment is traced in connection with the history of the French spoliation claims. These claims were one of the most vexing and dangerous questions of American diplomacy during the period. The part played by the principals in the affair has been carefully studied and new light thrown upon the activities of several of them. An attempt has been made to determine the extent of the public support which Andrew Jackson's colorful nationalistic policies commanded and thus establish the firmness of the foundation on which their revivification rested. The proffered mediation of England is presented as being motivated largely by self-interest.

I am deeply indebted to a number of friends who have aided me in the preparation of this work. Professor William C. Binkley of Vanderbilt University first revealed to me the possibilities of the field. He was my inspiring guide throughout the study. I am also indebted to Professors Frank L. Owsley, Irby R. Hudson, and the late Carl S. Driver of Vanderbilt University for valuable assistance. Mr. Fred C. Cole, editorial associate of *The Journal of Southern History*, read the manuscript and

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R. A. McLEMORE

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CHAPTER I

THE CLAIMS ISSUE

THE issue in Franco-American diplomacy around which the diplomatic intercourse centered in the quarter of a century after 1814 was that of the spoliation claims. In 1803 the United States and France had, in the Louisiana treaty, provided for the payment of most of the accumulated claims on either state by the citizens of the other. It was not long after the signing of this treaty until Napoleon was engaged in another mighty struggle in Europe. In the course of this war for world domination, Napoleon evolved his continental system. To support this system a number of general and special decrees were issued. The most important were the Berlin decree of November 21, 1806; the Milan decrees, November 11, 1807; the Bayonne decree of April 5, 1808; the secret decree of Vienna of August, 1809; and the Rambouillet decree of March 23, 1810. Under the authority of these decrees, ships and cargoes of an undetermined value belonging to citizens of the United States were seized by the French state. Napoleon estimated the total value of the confiscated goods at \$7,000,000. This was a conservative figure.

The United States protested against the seizures as violations of international law and in direct contravention of existing treaties. These protests went unheeded or were met by promises, apparently not intended to be kept, of

redress. When the American ministers tried to get a specific promise that the obnoxious decrees would be repealed, they received vague replies. The message of President Madison to congress on November 5, 1811, invited a declaration of war against England, but it contained no friendly word for France. There was so much bitterness against France that a declaration of war against that power failed of passage in the senate by only two votes. A few months later the United States became involved in a war with England.

In November, 1812, five months after the United States had declared war against England, Joel Barlow, the American minister in Paris, undertook a journey to Vilna, Poland, for the purpose of meeting Napoleon and laying before him the demand for indemnity. The defeat and destruction of the emperor's army on the Russian plains caused Napoleon to hurry on to Paris without stopping at Vilna. Barlow also began the return trip, but constant exposure and fatigue proved too much for him and he died on December 24, 1812, near Cracow. The emperor never acknowledged the legality of the American claims and never gave anything more than vague or impractical promises that the citizens of the United States would be reimbursed for the spoliations committed on their commerce. His downfall left further negotiations in the hands of the succeeding government.¹

Albert Gallatin, chosen by President Madison as minister to France, was to bear the responsibility of presenting the American claims to the French government.² Gallatin

¹ Henry Adams, *History of the United States of America*, 9 vols. (New York, 1879-1891), V, VI.

² Washington *National Intelligencer*, August 4, 1815.

was eminently fitted for the post he was to occupy. His biographer describes him as "a man of refinement in manners, tastes, and expression, a man of dignified and persuasive address, such as suited the highly exacting society of Paris under Louis XVIII." Gallatin's experience as secretary of the treasury and as a member of the commission that negotiated the Peace of Ghent gave him that intimate understanding of American affairs so desirable in the handling of difficult diplomatic relations.³

Gallatin was not disposed to accept the appointment. He did not think that anything "can at this moment be effected in that country, and it being very reluctant to my feelings to be on a mission to a degraded monarch and to a nation under the yoke of foreign armies, I have declined the mission."⁴ A change in the political situation in France removed some of the grounds for Gallatin's reluctance. Prince Charles Maurice de Talleyrand-Périgord had been forced out of the ministry of foreign affairs, and the Duke Armand E. du Plessis de Richelieu had been appointed to that office.⁵ Richelieu had expressed "in strong terms a desire to cultivate a good understanding between the United States and France."⁶ This was a

³ Henry Adams, *The Life of Albert Gallatin* (Philadelphia, 1879), 267 ff., 493 ff.

⁴ Albert Gallatin to Thomas Jefferson, November 27, 1815, in Henry Adams (ed.), *The Writings of Albert Gallatin*, 3 vols. (Philadelphia, 1879), I, 666-68.

⁵ Henry Jackson to Secretary of State, October 4, 1815, in Notes from Ministers to France, XVI, The National Archives. A complete classification of the manuscripts used from The National Archives will be found in the bibliography. A part of the correspondence has been published in government publications and in collections of correspondence of various individuals. A complete list of the printed sources is in the bibliography of this study.

⁶ James Monroe to Gallatin, December 16, 1815, in Adams (ed.), *Writings of Albert Gallatin*, I, 675-76.

decisive factor in Gallatin's acceptance of the appointment.⁷

Gallatin arrived in Paris on July 9, 1816. The first month of his residence in the French capital was spent in acquainting himself with his new surroundings. He had not been in Paris long before he perceived that the condition of French finances would be a formidable obstacle in the way of obtaining any indemnities. Information which he considered authentic led him to believe that there would be a deficit in the French budget every year until the reparations imposed on France by the foreign powers had been paid.⁸ The loans necessary to meet this deficit would be so heavily discounted on the market that the financial burden on the French government would be measurably increased.⁹

Gallatin called the attention of Richelieu to the principal object of his mission in an interview on August 30, 1816. In this interview he explained the reasons for the delay in the presentation of the demand for indemnity to the new government. The duke informed Gallatin that, aware of the object of his mission, he had already ordered the papers relating to the claims to be gathered. He expressed the opinion that the United States would not "be

⁷ Gallatin to Monroe, February 2, 1816, *ibid.*, 688.

⁸ Frank M. Anderson (ed.), *The Constitutions and Other Select Documents Illustrative of the History of France, 1789-1901* (Minneapolis, 1904), 479-82.

⁹ Gallatin to Monroe, August 6, 1816, in Notes from Ministers to France, XVII. A large part of Gallatin's diplomatic correspondence appears in *American State Papers Documents Legislative and Executive, of the Congress of the United States*, 38 vols. (Washington, 1832-1861), *Foreign Relations, 1789-1829*, 6 vols. (Washington, 1832-1857), V. Cited hereafter as *A.S.P., F.R.* The most complete printed source for Gallatin's correspondence is Adams (ed.), *Writings of Albert Gallatin*.

ultimately disappointed," but "he hoped that in the present situation of France . . . we were not going to fill up the measure of the embarrassment under which she labored." Gallatin ascertained that Richelieu meant by this statement that France was in no position to pay at the moment. He immediately assured the duke that the "time and mode of payment . . . must be arranged on principles of mutual accommodation" and that the first point the United States was interested in was the recognition of its demands.¹⁰

The conversation offered grounds for hope that a settlement of the claims would be achieved. Gallatin understood that there were certain difficulties to be overcome. In a private dispatch to Monroe he revealed more accurately the real situation. He thought that even if the ministry could be persuaded to enter into a satisfactory convention, the French legislature would not provide the funds to carry it into effect. The ambassadors of England, Russia, Prussia, and Austria were virtually in control of the French government and Gallatin was sure that their influence was being used to prevent a settlement.¹¹ It also appeared that France was endeavoring to reach an understanding for concerted action with Naples and the other powers against whom the United States had similar claims.¹²

It was one month after Gallatin had had his first interview with Richelieu on the claims question before he was given another. The first question that the duke asked in this interview was whether the United States had ob-

¹⁰ Gallatin to Monroe, September 12, 1816, *A.S.P.*, *F.R.*

¹¹ Gallatin to Monroe (confidential), September 12, 1816, *ibid.*

¹² Gallatin to Monroe, September 25, 1816, *ibid.*

tained any indemnity for the captures made by England under the orders in council. Gallatin admitted that his country had received no payment from the British government, but he reminded the foreign minister that "our having made war against England for that very object, and afterwards concluding a peace without providing for it, placed us with respect to that nation on a very different footing from that on which we stood with France." Richelieu then asserted that the United States had, through the imposition of such retaliatory measures as the exclusion of French vessels and produce from the ports of the United States, impaired its claim against France. Gallatin pointed out that these measures were no more than municipal regulations and that France at the moment was imposing similar prohibitory laws on foreign manufactures.

Richelieu also told Gallatin that it would be absolutely impossible for the French government to make compensation for all of the injuries done by the former governments of France. Because of this fact it had been decided to limit reparations to the most flagrant cases. The foreign minister asserted that the Berlin and Milan decrees of the Napoleonic period were of a general nature and not exclusively applicable to the United States. He thought that if compensation were granted to the United States for captures and confiscations made by virtue of the Berlin and Milan decrees the principle must be extended to other nations; therefore, it was not deemed proper to accept it in favor of the American government.

Gallatin admitted that nominally the decrees were of a general nature but insisted that actually, "so far as they infringed neutral rights," their effect had fallen almost exclusively on the United States. The duke did not con-

tradict this view, but contented himself with reaffirming the statement that France could enter into no negotiation on the subject. Richelieu admitted that there were some cases distinguished by special circumstances, such as vessels burned at sea, for which France might be disposed to make compensation. On the request of Gallatin the foreign minister promised to have the several cases investigated and to give the American envoy definite information as to how far France would be willing to go in making reparation. It seemed that the United States could hope to obtain only partial indemnification for the losses which its commerce had sustained.¹³

Gallatin decided that it was incumbent upon him to make a formal presentation of the American case. Accordingly, on November 9, 1816, he addressed to Richelieu a note which became the classic exposition of the American case. This note based the claim of American citizens to indemnity on the law of nations, "such as it is recognised by civilized nations." Gallatin then pointed out the infractions of that law. He placed first, reasons why the United States had a right to expect remuneration for confiscations under the Berlin and Milan decrees. He said that the decrees were "an evident and acknowledged violation of the law of nations"; that "the plea of retaliation against England and of a presumed acquiescence in her aggressions was unfounded with respect to the United States"; that the treaties between France and the allied powers were not binding on America, "nor the principles adopted in those treaties applicable to the relations in which she stood towards France"; and that finally the Berlin and Milan decrees were a violation of the twelfth,

¹³ Gallatin to Monroe, October 14, 1816, *ibid.*

thirteenth, and fourteenth articles of "the convention of the 30th Sept. 1800, which did not expire till the 31st of July 1809." Gallatin also discussed the special decrees and orders of the French government which applied exclusively to the United States. The Bayonne decree of April 17, 1808, was denounced as an attempt by a foreign government to enforce a law of the American state. This decree was followed on March 23, 1810, by the Rambouillet decree, which ordered the seizure of all vessels of the United States then in the ports of Europe.

The property seized under these decrees was divided into two classes—first, "that which has never been condemned," and second, "that which has been actually confiscated." Under the first heading Gallatin included all "vessels and cargoes burnt at sea and those which have been sequestered." The duke had already acknowledged the liability of France for the destruction of vessels at sea, and so the American minister confined his attention to "vessels and cargoes sequestered and not condemned." There were several groups in this class. There were seizures at St. Sebastian in the latter part of 1809 and in 1810, which were sold under the Rambouillet decree. About the same time, fourteen vessels were seized in Holland and put at the disposal of the government of France. In 1807 the cargoes of seven vessels landed at Antwerp were seized and were finally sold in 1810. The proceeds from all of these sequestrations had found their way into the public treasury. Gallatin demanded the return of the proceeds of sale to the lawful owners. In regard to the second general class of claims—the group which had been definitely condemned—Gallatin undertook to show that "independent of the illegality of the Berlin and Milan decrees,

there is sufficient cause for the revision of the condemnations which have taken place." His purpose in doing this was to open up the possibility of a settlement without forcing from France an acknowledgment of the illegality of the decrees.

The note closed with the presentation of a project which Gallatin thought would provide an equitable settlement. The duke was informed that the United States did not desire to increase the financial difficulties of France, and that the mode of payment least inconvenient to France "without being inconsistent with the just rights" of the American citizens would be accepted by the United States.¹⁴

A trivial incident occurred in the United States which made negotiations on the principal issue more difficult. Public opinion in America had been hostile toward the French government since the restoration.¹⁵ This attitude had worried Hyde de Neuville, the French minister to the United States, who had exerted himself to bring about a better understanding between the states. On July 4, 1816, a patriotic banquet was given at Baltimore. Among the toasts offered at the gathering was one by the postmaster of that city as follows: "The generals of France in exile; the glory of their native land, not to be dishonored by the denunciations of an imbecile tyrant."¹⁶ Neuville took exception to this toast and asked the dismissal of the post-

¹⁴ Gallatin to Duke de Richelieu, November 9, 1816, *ibid.*

¹⁵ Gallatin to Jefferson, November 27, 1815, in Adams (ed.), *Writings of Albert Gallatin*, I, 666-68; see also Jesse S. Reeves, *The Napoleonic Exiles in America: A Study in American Diplomatic History, 1815-1819* (Baltimore, 1905); Elizabeth Brett White, *American Opinion of France from Lafayette to Poincaré* (New York, 1927).

¹⁶ Washington *National Intelligencer*, July 13, 1816.

master.¹⁷ James Monroe, secretary of state, replied by informing Neuville that it was impossible for the United States government to restrain freedom of the press and freedom of speech.¹⁸ Gallatin was instructed to give similar explanations to Richelieu. The French foreign minister did not consider the explanation satisfactory and told Gallatin that the French government would be compelled "to evince their dissatisfaction at our refusal in their own way."¹⁹

In an interview with Richelieu on January 20, 1817, Gallatin received a statement of the views of the French government regarding his note of November 9. Richelieu declared he did not consider that the citizens of the United States were entitled to any indemnity from France. In support of this position he urged:

1st, the example of Naples in rejecting our application to the same effect; 2dly, the conduct of the allied powers, who, although dictating within the walls of Paris terms of peace to France, had not carried the demand of indemnities for their subjects to the extent claimed by us; 3dly, the constant refusal of Bonaparte to indemnify us for these acts of injustice which he had committed himself.

He also hinted that any indemnity granted would be a favor and, alluding to the refusal of the United States to dismiss the postmaster at Baltimore, stated that "we did not on our part show any disposition to do anything for France." Gallatin asked what would be the basis of the

¹⁷ Hyde de Neuville to Monroe, July 21, 1816, in *France: Notes to the Department of State*, IV.

¹⁸ Monroe to Neuville, August 15, 1816, in *Notes to Foreign Legations from Department of State*, II.

¹⁹ Gallatin to Monroe, November 21, 1816, in *Notes from Ministers to France*, XVII.

answer to his proposal. The duke replied that it would be impossible for France to offer compensation for any other classes than those vessels burned at sea, and he was even doubtful whether authority could be obtained from the chambers to pay to that extent.²⁰

The prospects of obtaining any sum approaching the American demands were not very bright. The financial difficulties confronting the French government made it evident that it would not willingly assume new debts. The ministry had secured the withdrawal of a part of the allied army of occupation which had been quartered in France since 1815. This was a welcome relief in one direction, but the reclamations imposed upon France by the continental powers were much larger than had been anticipated. Gallatin thought that there was no possibility of increasing taxes and that loans would be increasingly hard to secure.²¹

It was this situation which determined Richelieu not to give any written answer to Gallatin's note of November 9. The minister of foreign affairs told Gallatin that while "they were not willing to reject absolutely and definitively our reclamations in toto; they could not at this time admit them." He added that it had been decided "that a silent postponement of the subject was the least objectionable course, since having now made our demand for indemnity in an official manner, the question would be left entire for discussion at some more favorable time, after France was in some degree disentangled from her present difficulties."

Gallatin urged in vain the arguments which he had used in his note of November 9. He was especially vexed because he could secure no written reply to his communica-

²⁰ Gallatin to Monroe, January 20, 1817, *ibid.*

²¹ Gallatin to Monroe, February 17, 1817, *ibid.*

tions, for he desired the reason for postponement to be left on record. In order that at least a partial record might be left, he addressed a note to Richelieu protesting against the delay in the negotiation.²² In reporting to the secretary of state, Gallatin said that "there is still hope of obtaining hereafter justice in cases of property sequestered or burnt but that I have not the least expectation that any compensation will ever be made for property which has been definitely condemned."²³

The next official action on the American claims came when France was liquidating the final debts of its European creditors. Gallatin was anxious that in reporting the completion of this settlement to the chambers nothing be said that would preclude a later discussion of the claims. His efforts were successful, for the address to the chambers stated that "France (by this payment) is liberated, both as to principal and interest from all debts contracted toward the subjects of the other European powers, prior to the 20th November 1815." This was as far as Gallatin could persuade the ministry to go.²⁴

The secretary of state, finding it impossible to secure a general arrangement providing for all of the American claims, authorized Gallatin to present certain individual claims which were deemed to stand on a better basis than the mass of the claims.²⁵ The communications between Gallatin and the French government on these private claims were numerous during the next three years.²⁶ In

²² Gallatin to Richelieu, April 22, 1817, *ibid.*

²³ Gallatin to Secretary of State, April 23, 1817, *ibid.*, XVIII.

²⁴ Gallatin to Richelieu, April 3, 1818; Gallatin to John Quincy Adams, April 27, 1818, *ibid.*

²⁵ Adams to Gallatin, December 31, 1818, in Instructions to United States Ministers, VIII.

²⁶ See correspondence in *A.S.P.*, *F.R.*, V, 290 ff.

no case was France moved to grant any indemnity, but the constant presentation of them kept the discussion alive. Gallatin had little hope that he would be able to obtain any satisfactory settlement.²⁷

In December, 1821, a change of the political parties in power occurred in France. This shift brought into the foreign office Viscount Mathieu Jean F. Montmorency, who Gallatin hoped would be more friendly toward the American claims.²⁸ He recognized, however, that the subject was extremely unpopular with all parties and "that there will probably be a difficulty in obtaining the necessary appropriations from the legislative bodies."²⁹ In a note to the foreign office on May 3, 1822, Gallatin brought the claims to the attention of the count. He reminded Montmorency that his notes on the subject, including that of November 9, 1816, had remained unanswered. This, he said, was an "uncommon proceeding in the intercourse between independent nations" and he requested a discussion of the subject.

In a conversation which followed a few days later between the representatives of the two governments, the difficulties which France would face in effecting a settlement were discussed. It was agreed that a definitive agreement was preferable to a partial payment, and "that the choice must . . . be between the two following modes: either the payment of a stipulated sum, in full discharge of the demands of the United States for spoliations, and

²⁷ Count Gallatin (ed.), *The Diary of James Gallatin, Secretary to Albert Gallatin, A Great Peace Maker: 1813-1827* (New York, 1916), 191.

²⁸ Gallatin to Adams, December 27, 1821, in *Notes from Ministers to France*, XX.

²⁹ Gallatin to Adams, January 28, 1822, *ibid.*

to be distributed by their government; or the reference of the whole case to a joint commission." Gallatin was warned that there was opposition in the council of ministers to any agreement and that it would be necessary to postpone the negotiation until the commercial treaty which was being negotiated in Washington had been concluded.³⁰

Gallatin found it satisfactory "that the unfavorable suggestions heretofore made on that subject are no longer alluded to, and that the only reason assigned for its postponement is foreign to the merit of the claim." He considered the grounds for delay vexatious and asserted that they "appear altogether untenable." He also pointed out that the original reason for delay was the "magnitude of the claims" made upon France by European debtors. These claims had been satisfied and the prosperous state of French finances left no "grounds for the primitive objection." The new cause for delay, Gallatin stated, arose from "circumstances of subsequent date, and . . . are wholly unconnected with the subject in question."³¹

³⁰ Viscount Mathieu J. F. Montmorency to Gallatin, June 1, 1822; Gallatin to Adams, June 13, 1822, *ibid.*, XXI.

³¹ Gallatin to Montmorency, June 13, 1822, *ibid.*

CHAPTER II

THE COMMERCIAL TREATY

THE end of the Napoleonic period found the commerce of the United States and France in a disorganized condition. This was especially true of shipping, which had been virtually wiped from the sea by the English fleet. In promoting a revival of their commerce, each of the states sought to secure advantages for its nationals. With this end in view the government of France enacted a series of laws beginning with that of December 14, 1814, which levied high protective duties on articles that could be produced in France and at the same time encouraged shipping by granting a reduction of tariff schedules on articles imported in French vessels. In the United States the competition of foreign-made goods was met by the passage of the tariff act of 1816. The ship-owners of the United States found that their vessels were being discriminated against in European ports. In order to secure equality of treatment the American government proposed reciprocity. On the shipping of those states which refused to enter into an agreement of this kind, discriminatory duties were levied.¹

The government of France did not accept the American government's offer of reciprocity. This resulted in the imposition of higher duties on French shipping in American ports than were imposed on those countries which

¹ Willis H. Walker, *Franco-American Commercial Relations, 1820-1850* (Fort Hays, Kan., 1931), 38-39.

had accepted the American proposal. In the Louisiana treaty of cession of 1803, article eight had provided that "In the future and forever after the expiration of the twelve years, the Ships of France shall be treated upon the footing of the most favoured nation in the ports above mentioned." The ports "above mentioned" were those of the territory ceded. On the basis of this article, Neuville protested the collection of higher duties from French commerce at New Orleans than were imposed on other nations.²

In interpreting this clause in an unconditional manner the French government was in accord with the practices of European states. The American precedent was somewhat different. In most of the early treaties that the United States had signed, the clause had appeared, but always in a conditional form. In a treaty of 1782 with the Netherlands the most-favored-nation clause in an unconditional form appeared. Later, Virginia granted to France certain tariff concessions in return for privileges. The Netherlands immediately asked that the same preferential tariff treatment be extended to their commerce. This protest was turned over to John Jay, secretary for the department of foreign affairs. In reporting upon the matter to congress, Jay said:

It is observable that this article takes no notice of cases where compensation is granted for privileges. Reason and equity however, in the opinion of your Secretary, will supply this deficiency. . . . Where a privilege is gratuitously granted, the nation to whom it is granted becomes in respect

² Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, 5 vols. (Washington, 1931-1937), II, 504; Neuville to Adams, December 15, 1817, in France: Notes to the Department of State, IV.

to that privilege a favored nation . . . but where the privilege is not gratuitous, but rests on compact, in such case the favor, if any there be, does not consist in the privilege yielded. . . . The favor therefore of being admitted to make a similar bargain is all that in such cases can reasonably be demanded under the article. Besides, it would certainly be inconsistent with the most obvious principles of justice and fair construction, that because France purchases, at a great price, a privilege of the United States, that therefore the Dutch shall immediately insist, not on having the like privileges at the like price, but without any price at all.³

The construction put upon the unconditional clause by Jay was adopted by John Quincy Adams in 1817 in his reply to Neuville. Adams held that the concessions enjoyed by England were not gratuitous; hence France was not entitled to them under the clause in question. He told Neuville that the United States would be glad to extend to France "every advantage enjoyed by the vessels of Great Britain, upon the fair and just equivalent of reciprocity."⁴ In putting this interpretation on the article, he adopted the conditional construction for an unconditional statement. From the point of view of strict logic his interpretation was probably as correct as that of the French; but from the point of view of precedent and of the understanding that existed between the negotiators of the treaty, his position was less defensible.⁵

The French government did not acquiesce in the American interpretation of the article. Six months after the

³ Quoted in Samuel B. Crandall, "The American Construction of the Most-Favored-Nation Clause," in *American Journal of International Law* (New York), VII (1913), 708-23.

⁴ Adams to Neuville, December 23, 1817, in Notes to Foreign Legations from Department of State, II.

⁵ E. J. Conroy, "American Interpretation of the Most Favored Nation Clause," in *Cornell Law Quarterly* (Ithaca), XII (1927), 327-50.

reply of Adams had been received, Neuville dispatched a second note setting forth in detail the basis of the French claim.⁶ Adams considered the claim a "captious and groundless pretension, raised for the purpose of a pretext to put off the adjustment of our claims." He told Neuville that since his answer would only repeat in substance what he had already said, he was reluctant to send it.⁷

Another adverse influence in the United States on French navigation was the lack of any convention which would protect French vessels against the desertion of their seamen in American waters. In order to secure a degree of protection to French shipowners, Neuville proposed that a convention be entered into on the subject. The American government admitted that this abuse existed but it was unwilling to enter into negotiations on this question, unless a general review of the commercial relations of the two countries could be obtained.⁸

In spite of these difficulties Gallatin attempted to secure a commercial treaty in Paris. His efforts were necessary because the countervailing duties imposed by the American government proved insufficient to protect its navigation.⁹ Gallatin's proposals for a commercial treaty were either ignored or met with excuses for delay.¹⁰ He wrote

⁶ Neuville to Adams, June 16, 1818, in France: Notes to the Department of State, V.

⁷ Charles F. Adams (ed.), *Memoirs of John Quincy Adams, Comprising Portions of His Diary from 1795 to 1848*, 12 vols. (Philadelphia, 1874-1877), IV, 127 (August 24, 1818).

⁸ Neuville to Adams, March 29, 1819, in France: Notes to the Department of State, V; Adams to Neuville, March 31, 1819, in Notes to Foreign Legations from Department of State, II.

⁹ Gallatin to Adams, October 25, 1819, in Notes from Ministers to France, XIX.

¹⁰ Gallatin to Adams, October 25, November 8, December 9, 1819, *ibid.*

Adams that nothing would be done "here until we shall have done justice to ourselves by our own measures."¹¹ Gallatin thought that the French government had been sufficiently warned and would have no just cause for complaint concerning any measures "founded on the principle of equality."¹²

The shippers of the United States, seeing a steady diminution of the business in their hands, petitioned congress for an increase in the discriminatory duties.¹³ The correspondence of Gallatin, advising this course, was also laid before congress.¹⁴ As a result, a law was passed on May 15, to go into effect on July 1, 1820, imposing a duty on French shipping high enough to insure Americans an advantage in the trade. Neuville protested at once against this act. He contended that the French discriminatory duties were imposed for the purpose of giving to that country only a just share of the trade between the two states and that without some discrimination it would be impossible for French navigation to compete with American. He also pointed out that the date fixed for the law to take effect was only six weeks distant. Consequently, a number of French vessels would have sailed before they had had any information respecting the passage of the act.¹⁵

American diplomats held a different view of the act.

¹¹ Gallatin to Adams, January 20, 1820, *ibid.*

¹² Gallatin to Adams, January 15, 1820, *ibid.*

¹³ *American State Papers . . . Commerce and Navigation*, 2 vols. (Washington, 1832-1834), II, 257-80.

¹⁴ Adams to Thomas Newton, Chairman of the Committee on Commerce of the House of Representatives, April 22, 1820, in *A.S.P., F.R.*, V, 23 ff.

¹⁵ Adams (ed.), *Memoirs*, V, 119 (May 15, 1820), 123-24 (May 17, 1820).

Adams thought the law justified because of the "neglect of three years by the French Government of our repeated proposals to negotiate a commercial treaty, and after full warning given by Gallatin, that if they did not come to some arrangement with us, countervailing measures would be taken at the present session of Congress."¹⁶ Gallatin expressed the opinion that the duty imposed by congress was too heavy, as it made the difference in favor of American vessels as great as it had been in favor of French vessels.¹⁷ He expected that the French government would levy a "retaliatory extra-duty on the tonnage of our vessels."¹⁸ His expectations were fulfilled in the ordinance of July 26, 1820, which imposed additional duties on American vessels.¹⁹ Adams thought that the legislation of the two countries would have the effect of placing the shipping between them in the hands of third parties. He could not see that the United States would lose anything by it, for if the policies in force had been continued, the United States would have "been as effectually excluded from her Ports."²⁰ Adams urged that France either accept the offer of reciprocity which had already been made, or agree to negotiate a commercial treaty.²¹

Baron Étienne Denis de Pasquier, who had succeeded Richelieu in the foreign office, suggested "a reduction of duties, so modified as to give an equal chance to both na-

¹⁶ *Ibid.*, 119 (May 15, 1820).

¹⁷ Gallatin to Adams, July 5, 1820, in Notes from Ministers to France, XIX.

¹⁸ Gallatin to Adams, July 11, 1820, *ibid.*

¹⁹ Gallatin to Adams, July 27, 1820, *ibid.*

²⁰ Adams to Gallatin, September 13, 1820, in Instructions to United States Ministers, IX.

²¹ Adams to Gallatin, May 26, 1820, *ibid.*

tions to participate in the carrying trade.”²² Gallatin argued for a total abolition of all discriminatory duties.²³ It appeared probable that it would be impossible to reach an agreement in Paris. Gallatin thought that the results would be the transfer of the negotiation to Washington and that Neuville, who had returned to France, would be sent back.²⁴ The reintroduction of the question of the interpretation of the Louisiana treaty of cession into the negotiation rendered this course necessary.²⁵

While these negotiations were in progress the French merchants, who were suffering as a result of the discriminatory duties imposed by the American government, devised a scheme which they thought would circumvent the law. They proposed to send vessels to the St. Mary's River in Florida and there to unload them on the Spanish side. It mattered not that there was no port of entry at that place; goods could be unloaded and passed into the United States and thus the customs regulations of the American government could be evaded. This proposition was submitted to the foreign office and Neuville was called upon for his opinion. He immediately replied that he thought the project legal.²⁶ Gallatin was ignorant of this scheme, but he suspected that no agreement would be reached until the French were satisfied that they could not evade or defeat “our measures.”²⁷

²² Baron Étienne Denis de Pasquier to Gallatin, July 31, 1820, in Notes from Ministers to France, XX.

²³ Gallatin to Pasquier, August 15, 1820, *ibid.*

²⁴ Gallatin to Adams, August 30, 1820, *ibid.*

²⁵ Gallatin to Adams, September 19, 1820, *ibid.*

²⁶ Adams (ed.), *Memoirs*, V, 295-97 (February 24, 1821).

²⁷ Gallatin to Adams, December 4, 1820, in Notes from Ministers to France, XX.

In the early days of September, 1820, the *Apollon*, a French vessel, arrived in the St. Mary's River. While the residents of Florida apparently looked forward to annexation to the United States, they saw in this situation something "else to go on" in case the treaty failed. The Spanish vice-consul immediately wrote friends in the United States to advertise the possibilities of the port so that French merchants would send more cargoes through it.²⁸ The government of the United States, not desiring to see its revenue laws evaded so easily, ordered the *Apollon* seized. The case was taken before the federal district court in Georgia. It was planned to appeal it to the higher courts in case of an adverse decision in the lower courts. In this way Adams hoped to prevent the use of the harbor by France pending the transfer of Florida to the United States.²⁹

When the seizure of the *Apollon* and of the *Eugene* and *Neptune*, captured about the same time for violation of slave-trading acts, was announced in France a storm of indignation was aroused.³⁰ Neuville, again serving as French minister in Washington, told Adams that if a settlement of these cases was not reached, France would declare war.³¹ The ratification of the Florida purchase treaty by Spain removed the possibility of any further use of the St. Mary's River for such purposes. This fact and the doubtful legality of the seizures resulted in the dismissal of the suit against the *Apollon*.³² The claims of the

²⁸ *A.S.P., F.R.*, V, 89-90.

²⁹ Adams (ed.), *Memoirs*, V, 335 (March 26, 1821).

³⁰ Charles Nicoullaud, *Casimir Périer, Député de l'opposition, 1817-1830* (Paris, 1894), 127.

³¹ Adams (ed.), *Memoirs*, V, 415-16 (November 25, 1821).

³² *Ibid.*, 419 ff. (November 27, 1821).

owners of the vessel against the American government were satisfied the next year.³³ The *Eugene* and *Neptune* were surrendered to French consuls.³⁴

When Neuville and Adams resumed conversations in Washington looking toward the negotiation of a commercial treaty it became apparent that the differences over the interpretation of the eighth article of the Louisiana treaty of cession was the most serious obstacle. The French had lodged a formal protest against the law of May 15, 1820, levying discriminatory duties upon French commerce, in general and especially against its enforcement in the port of New Orleans.³⁵ On his arrival in the United States, Neuville asked for a reply to his note of June 16, 1818.³⁶ Adams had not answered the note because he desired to "avoid altercation upon a claim which had no substance and upon which my answer to his first letter was of itself a sufficient answer to his reply."³⁷ The controversy degenerated into a rehashing of old arguments, each of the agents presenting the views of his government in an able manner.³⁸

It soon became evident that neither state could hope to persuade the other to accept its viewpoint. Neuville thought that the commercial relations between the two countries were of too much importance to permit a longer postponement of a commercial treaty. He proposed to the secretary of state that the interpretation of the eighth article of the Louisiana treaty be made the subject of a

³³ *Niles' Weekly Register* (Baltimore), XXII, 320 (July 13, 1822).

³⁴ Adams (ed.), *Memoirs*, V, 295-97 (February 24, 1821).

³⁵ Roth to Adams, July 19, 1820, in France: Notes to the Department of State, VI.

³⁶ Neuville to Adams, February 23, 1821, *ibid.*

³⁷ Adams (ed.), *Memoirs*, V, 295-97 (February 24, 1821).

³⁸ The correspondence is printed in *A.S.P., F.R.*, V, 640 ff.

special negotiation to be begun without delay.³⁹ Adams agreed to this suggestion.⁴⁰ This decision left the negotiators free to give their undivided attention to the commercial negotiations.

Several factors now combined to make the progress of the negotiations less difficult. Congress had passed an act which restored to French shipowners the extra tonnage duties collected prior to September 30, 1820, under the act of May 15, 1820. The passage of this act expressed the good will of the American people and proved that they were willing to meet France halfway.⁴¹ President Monroe was especially anxious to reach a commercial arrangement and was willing to offer more liberal terms than Adams was disposed to grant.⁴² France was apparently more interested in the successful prosecution of the negotiations than many of the Americans thought.⁴³ Neuville proposed the substance of a temporary arrangement on August 15, 1821.⁴⁴ Adams found it possible for his country to accept five out of the six provisions of the proposed agreement. The one which he rejected dealt with the reduction of discriminatory duties. He thought that the proposal which Neuville had made would leave American shippers under a prohibitory duty which would effectively exclude them from the carrying trade.⁴⁵

³⁹ Neuville to Adams, February 23, 1821, in France: Notes to the Department of State, VI.

⁴⁰ Adams to Neuville, August 13, 1821, in Notes to Foreign Legations from Department of State, III.

⁴¹ Washington *National Intelligencer*, March 8, 1821.

⁴² Adams (ed.), *Memoirs*, V, 345 (April 13, 1821).

⁴³ *Ibid.*, 354 (May 30, 1821).

⁴⁴ Neuville to Adams, August 15, 1821, in France: Notes to the Department of State, VII.

⁴⁵ Adams to Neuville, August 20, 1821, in Notes to Foreign Legations from Department of State, III.

The failure of the United States to agree to Neuville's proposal necessitated a delay, while he awaited new instructions from Paris. In order to secure as favorable instructions as possible, Gallatin was directed to present certain observations on the commercial relations of the two countries.⁴⁶ Whether Gallatin's communication was responsible for the change in attitude of the French government is conjectural. Pasquier did instruct Neuville to present a proposition more in conformance with the American demands than the French state had been willing to accede to heretofore.

The negotiations were reopened in March, 1822. Neuville announced, at this time, his intention of returning to Europe almost immediately. This led the English minister, Stratford Canning, to report to his government that Neuville's "endeavors to adjust a Commercial Treaty with this country have again, come to a stand, under circumstances of considerable dissatisfaction."⁴⁷ This conclusion, however, proved to be erroneous. Neuville submitted a number of statistics on the commercial relations of the two countries in an effort to show that it would be necessary for France to retain some part of the discriminatory duties if she held a just portion of the commerce.⁴⁸ It soon became evident that France would be insistent on the retention of some of the discriminatory duties.⁴⁹ The two

⁴⁶ Gallatin to Pasquier, October 15, 1821, in Notes from Ministers to France, XX.

⁴⁷ Stratford Canning to Marquis of Londonderry, March 9, 1822, No. 18, Public Records Office (London), Foreign Office 5, America 167. Cited hereafter as F.O. All of the English foreign correspondence used, unless otherwise cited, has been the photostat copies in the Library of Congress.

⁴⁸ Neuville to Adams, March 11, 1822, in France: Notes to the Department of State, VIII.

⁴⁹ Neuville to Adams, April 11, 1822, *ibid.*, VII.

negotiators faced this proposition and proceeded to work out a compromise to which both could agree. The conversations between them finally resulted in the proposition from Adams that the two countries enter into an agreement limited to four years' duration. In the beginning, a fixed discriminating duty would be levied by each state. This duty would be diminished by one-fourth every year on both sides.⁵⁰ Neuville accepted this suggestion. With the solution of this problem it was easy for the diplomats to agree on the other provisions of the commercial convention which was signed on June 24, 1822.⁵¹

The comments on the completed treaty were uniformly friendly. Adams thought that it would have been the "wiser policy to have adhered inflexibly to the principle of entire reciprocity, and to have admitted no discriminating duties on either side." President Monroe also favored this view, but thought that congress would not support the administration in this policy.⁵² It was very probably Monroe's influence which brought Adams to the position he finally assumed and thus made possible the successful termination of the negotiation. The *Washington National Intelligencer* declared that each side had yielded certain points "in a spirit of accommodation, and from a sincere desire to get rid of the difficulties which have lately embarrassed the intercourse between the two countries."⁵³ Gallatin wrote from Paris that the treaty had been received with "great satisfaction" in France.⁵⁴ The French

⁵⁰ Adams to Neuville, May 11, 1822, in Notes to Foreign Legations from Department of State, III.

⁵¹ Miller (ed.), *Treaties and Other International Acts*, III, 77-83.

⁵² Adams (ed.), *Memoirs*, V, 541 (May 30, 1822).

⁵³ *Washington National Intelligencer*, June 27, 1822.

⁵⁴ Gallatin to Adams, July 29, 1822, in Notes from Ministers to France, XXI.

chargé in Washington informed Adams that the treaty had been received with great favor by the king.⁵⁵ Canning considered the convention merely a temporary one and saw little prospect of its taking a permanent form.⁵⁶

⁵⁵ Adams (ed), *Memoirs*, VI, 98 (November 9, 1822).

⁵⁶ Canning to Londonderry, July 2, 1822, No. 51, F.O. 5, America 168.

CHAPTER III

CLAIMS NEGOTIATION DEADLOCKED

GALLATIN had opposed the postponement of negotiations on the American claims pending the adjustment of commercial relations. He feared that the commercial negotiations would be fruitless and thus the claims question would be sidetracked by an irrelevant issue.¹ Contrary to his expectations, an agreement was reached. The announcement of the successful termination of these negotiations reached Paris in the latter part of July, 1822.² With the removal of this issue the way was opened for a renewal of the discussion on the claims question.³

A change in the organization of the French cabinet now occurred which directly affected the discussion of the claims question. The Viscount de Montmorency, at the Congress of Verona, had committed France to a policy of intervention in Spain. He found that this policy was not acceptable to the government, and so he resigned his office. Count Joseph de Villèle, who was president of the council, assumed the duties of the department of foreign affairs.⁴ Gallatin had entertained some hope that Montmorency was on the point of recognizing, at least to some extent, the

¹ Gallatin to Montmorency, June 13, 1822, in Notes from Ministers to France, XXI.

² Gallatin to Adams, July 29, 1822, *ibid.*

³ Gallatin to Montmorency, August 17, 1822, *ibid.*

⁴ Gallatin to Adams, January 6, 1823, *ibid.*

American claims. He thought that Neuville, who had just returned from the United States, had represented to the French ministry the necessity of an adjustment of the claims. The change in the ministry left Gallatin without any "very sanguine hopes."⁵

The conversations were reopened by a request from Gallatin that the claims be adjusted.⁶ In reply to this note, Count de Villèle stated that he was gathering the documents relating to the affair and would be ready to discuss them with Gallatin in a few days. In the latter part of September, Villèle and Gallatin met for a conference. In this interview the foreign minister expressed his desire that a "general arrangement might take place, embracing all the subjects of discussion between the two states." It developed in the ensuing conversation that Villèle considered the subjects for conversation to be, "the reclamations of the United States for spoliations on their trade, those of France on account of Beaumarchais' claim, and of the vessels captured on the coast of Africa, and the question arising under the Louisiana treaty."⁷

The introduction of the Beaumarchais claim into the discussion brought the attention of the negotiators to one of the oldest problems in American diplomacy. These claims originated during the early years of the American revolution when Beaumarchais, through the fictitious commercial house of Roderique Hortalez and Company, undertook to furnish the colonies certain war supplies. In 1779, when the first adjustment of the accounts occurred, the United States authorized a payment of 2,400,000 livres

⁵ Gallatin to Adams, September 8, 1822, *ibid.*

⁶ Gallatin to Joseph de Villèle, August 31, 1822, *ibid.*

⁷ Villèle to Gallatin, September 3, 1822; Gallatin to Adams, September 24, 1822, *ibid.*

of a total claim of approximately 5,000,000 livres. Subsequently, when congress was adjusting the national obligations, the theory was advanced that the largest portion of the supplies furnished by Beaumarchais were provided gratuitously by the French government. In spite of explanations from the French government to the contrary, congress persistently refused to admit the validity of the claim. Presidents Madison and Monroe recommended the payment of the claims and several congressional committees had made favorable reports on them. The French government had consistently supported the claim but had been unable to secure any adjustment.⁸

If the questions which Villèle had enumerated were made the subject of a general discussion it appeared that there was a fair prospect of an adjustment of all outstanding issues. Gallatin told Villèle that he was ready to negotiate on all of these subjects, but that he opposed the uniting of the question "arising under the Louisiana treaty" with the claim for indemnity. He thought that his country had the right to expect "that no further obstacle should be thrown in the discussion of our claims by connecting it with subjects foreign to them." Villèle made no further observations on the subject, but told Gallatin that Hyde de Neuville, now returned from the United States, would be commissioned to negotiate with him.⁹

In the conversation with Neuville a few days later, Gallatin found no cause for encouragement. Neuville expressed the belief that the "present government of France"

⁸ John Bassett Moore (ed.), *History and Digest of the International Arbitrations to Which the United States has been a Party*, 6 vols. (Washington, 1898), V, 4458.

⁹ Gallatin to Adams, September 24, 1822, in *Notes from Ministers to France*, XXI.

was not bound to pay the American claims "arising from Bonaparte's aggressions and decrees." If the Bourbons consented to the payment of any indemnity, it must be considered as an "act of generosity." Villèle's representative rejected altogether the claims for indemnity where a "condemnation had taken place." As for the cases where condemnation had not taken place, Neuville thought that recourse should be made to the government of Holland for seizures taking place in that state and to Spain for seizures in its territory, even though in both cases the moneys received from the seizures had found their way into the French treasury. Neuville stressed the claims which France had against the United States, especially those of Beaumarchais, the question of the Florida seizures, and the question of the vessels seized on the African coast. Gallatin used the same arguments in replying to these observations which he had used in his earlier communications with the French ministers.¹⁰

The importance of the question of the interpretation of the Louisiana treaty now became evident. A formal note from the French government contained the proposition that a general negotiation between the two countries be entered into for the purpose of terminating "simultaneously, and in a definitive manner, every dispute between the two states, especially in what concerns the duties received in Louisiana on the French commerce, contrary to the tenor of the 8th article of the treaty of cession."¹¹ Gallatin immediately replied that he was authorized to discuss the Louisiana question but that he had received no special instructions on the subject from his government.

¹⁰ Gallatin to Adams, November 13, 1822, *ibid.*

¹¹ Villèle to Gallatin, November 6, 1822, *ibid.*

He also renewed his protest against uniting this question with the others in dispute.¹² Gallatin wrote Adams that he had no hope of securing a divorcement of the claims question and the Louisiana question. He thought that the latter was raised "to postpone, if not to defeat" the negotiation on the first object.¹³ A few days later Gallatin received a note from the foreign minister informing him that negotiations would have to be discontinued until he had received instructions from his government on the Louisiana question.¹⁴

Gallatin had planned to return to the United States in the spring of 1823.¹⁵ The factors which entered into this decision were the ensuing presidential election¹⁶ and probably a certain bitterness which he felt towards Adams.¹⁷ In the note announcing his resignation, Gallatin said that there was not "at this time the least prospect of a settlement of our claims"; therefore, he could perceive no reason for protracting his stay in France.¹⁸ Before leaving France, Gallatin decided to make one more effort to separate the negotiations on the claims from the Louisiana question. In pursuit of this plan he addressed a note to Viscount François A. de Chateaubriand, who had become head of the department of foreign affairs.¹⁹ The note remained unanswered, but in a private conversation Gallatin

¹² Gallatin to Villèle, November 12, 1822, *ibid.*

¹³ Gallatin to Adams, November 13, 1822, *ibid.*

¹⁴ Villèle to Gallatin, November 15, 1822, *ibid.*

¹⁵ Gallatin to Monroe, November 13, 1823, in Adams (ed.), *Writings of Albert Gallatin*, II, 262.

¹⁶ Crawford to Gallatin, May 26, 1823, *ibid.*, 268-70.

¹⁷ Gallatin (ed.), *Diary of James Gallatin*, 236.

¹⁸ Gallatin to Adams, February 28, 1823, in Adams (ed.), *Writings of Albert Gallatin*, II, 267.

¹⁹ Gallatin to Viscount François Auguste de Chateaubriand, February 27, 1823, in *Notes from Ministers to France*, XXI.

told Chateaubriand that if France wished to keep the friendship of the United States, "her conduct must be changed."²⁰

Gallatin had spent seven years as minister of the United States at Paris. The principal object of his mission had not been accomplished and he was vexed because of the years wasted in fruitless endeavor.²¹ Henry Adams, in his *Life of Albert Gallatin*, says that "he left the whole situation at last, to all appearances, precisely where he found it."²² The French government expressed officially its regret at the departure of Gallatin,²³ and the king gave a personal expression of his attachment to him.²⁴ Betsy Patterson, at this time Madame Jerome Bonaparte, wrote her father that it would be difficult "to represent the country half as well if he should decline continuing minister."²⁵

In one of his final dispatches Gallatin had suggested to the secretary of state that a national feeling on the subject should be aroused, as the mode best calculated to produce effect. He thought that the claimants should petition congress for action. Gallatin was sure that the apathy of the interested citizens had been one of the factors which contributed to the failure of his mission.²⁶ The first step in this direction came in the form of a resolution of December 11, 1823, by the house of representatives, requesting the

²⁰ Gallatin (ed.), *Diary of James Gallatin*, 242.

²¹ *Ibid.*

²² Adams, *Life of Albert Gallatin*, 568.

²³ Adams (ed.), *Memoirs*, VI, 162 (July 11, 1823).

²⁴ Beckles Willson, *America's Ambassadors to France, 1777-1927* (New York, 1928), 150-51.

²⁵ Madame Jerome Bonaparte to William Patterson, May 6, 1826, in Eugene L. Didier, *The Life and Letters of Madame Bonaparte* (New York, 1879), 135.

²⁶ Gallatin to Adams, February 27, 1823, in Notes from Ministers to France, XXI.

president to communicate to it Gallatin's correspondence on the claims question.²⁷ The correspondence was edited by Gallatin himself, and those parts which tended to be "prejudicial to the interest of the claimants" were omitted from the copies sent to the house of representatives.²⁸

At about the same time that the correspondence was laid before the lower house of congress, Gallatin wrote a private letter in which he explained to a group of interested claimants the condition of the attempt at collection. He then suggested three possible modes of settlement. The first was to secure from France payment individually of each claim presented. The second mode was to secure in compensation a gross sum to be divided among the claimants by the United States government. In the third place, he suggested that the claims might be referred to a joint commission for adjudication. Gallatin also urged that the correspondence which had been communicated to congress be "republished in some newspapers, in order to make the scattered claimants acquainted with the state of the business, and in order to produce some national feeling in favor of the claims."²⁹

The administration had hoped that Gallatin would consent to return to France,³⁰ but his private affairs could not be attended to quickly enough to permit him to get back to Paris as early as the executive desired. Therefore, another appointment was necessary.³¹ The choice of Presi-

²⁷ *A.S.P., F.R.*, V, 282.

²⁸ Gallatin to Chandler Price, February 11, 1824, in Adams (ed.), *Writings of Albert Gallatin*, II, 275-82.

²⁹ *Ibid.*

³⁰ Monroe to Gallatin, October 15, 1823, *ibid.*, 274.

³¹ Adams (ed.), *Memoirs*, VI, 181 (November 7, 1823).

dent Monroe finally fell upon James Brown of Louisiana. Brown had been a senator from Louisiana for eight years. He had been a consistent supporter of the administration, but apparently it was the support of Henry Clay (he had married Mrs. Clay's sister) which secured the post for him.³²

Brown was instructed to "earnestly call the attention of the French Government to the claims of our citizens for indemnity" immediately after his reception. At the same time he was to make it known "that this Government cannot consent to connect this discussion with that of the pretension raised by France, on the construction given by her to the 8th article of the Louisiana cession treaty."³³ On his arrival in France, Brown addressed a note to Chateaubriand, in which he made an effort to separate the claims of the citizens of the United States from the Louisiana question.³⁴ In his reply Chateaubriand merely asserted that no change had occurred in the determination of the French government to connect these questions in the same discussion.³⁵ Subsequent attempts of Brown to secure separate negotiations on the two subjects were unsuccessful.³⁶

In the same month that Chateaubriand's reply to Brown's note was received at the American embassy in

³² Allen Johnson and Dumas Malone (eds.), *The Dictionary of American Biography*, 20 vols. and index (New York, 1928-1937), III, 126.

³³ Adams to James Brown, December 23, 1823, in *Instructions to United States Ministers*, IX.

³⁴ Brown to Chateaubriand, April 28, 1824, in *Notes from Ministers to France*, XXII.

³⁵ Chateaubriand to Brown, May 7, 1824, *ibid.*

³⁶ See correspondence in *A.S.P., F.R.*, V, 481.

Paris, the committee on foreign relations of the house of representatives made a report on certain petitions which had been presented to them regarding individual claims against France for spoliations. This committee also had before it the correspondence of Gallatin on the subject. The committee expressed its surprise that France had not given any more consideration to the question although its attention had been called to it repeatedly. The opinion was expressed in the report "that measures ought to be taken to impress upon France the necessity of an early and definite adjustment of this subject, and they would offer such measures to the consideration of the House if the hope was not entertained that the Government of France would be found, during the ensuing summer prepared to investigate it."³⁷ The claimants and congress were following out the suggestion of Gallatin in giving a national expression to the American demands.

At the next session of congress the correspondence of Brown was submitted for its consideration.³⁸ Congress did not act on the matter in the short session, but the unsatisfactory condition of the negotiations did not escape the notice of the public. The editors of the *Washington National Intelligencer* found "nothing in our foreign relations at this time, more interesting than this negotiation."³⁹ The *Richmond Whig* expressed the hope "that if reparation is not speedily granted, that the representatives of the people of the U.S. will adopt that course, which the insulted dignity and violated rights of our country imperi-

³⁷ Committee on Foreign Relations to House of Representatives, May 24, 1824, *ibid.*, 351.

³⁸ *Washington National Intelligencer*, January 10, 1825.

³⁹ *Ibid.*

ously demand—a resort to hostilities—to obtain that justice which has for so long a period been denied to us.”⁴⁰

The change of administration which occurred in the United States on March 4, 1825, offered little prospect of a change in the foreign policy of the country. Adams, as president, would be likely to pursue the same policy that he had followed as secretary of state. In the first annual message which Adams addressed to congress is found the statement of the policy which his administration proposed to pursue in regard to the claims.

The discussion among the president's advisers regarding the framing of the message to congress reveals interesting differences of opinion as to the best policy to pursue. In an early conversation which Adams had with Clay on the French claims, the secretary of state intimated that reprisals “ought to be recommended, or at least alluded to, as to be advisable hereafter.”⁴¹ A few days later the draft of the annual message which Adams had prepared was laid before the cabinet for discussion. That part of it relating to the claims question was summarized by Adams as follows:

After stating that the justice of the claims on France was undenied and undeniable, and that reparation for them had long been sought in vain, I stated that the United States would be fully justified in resorting to their own force for redress; but that force, instead of obtaining redress, was more adapted to aggravate than to repair such wrongs, and that our policy would be to persevere in urging the claims until justice for them shall be obtained, but explicitly without resorting to force or committing any hostility.

⁴⁰ *Richmond Whig*, quoted in *Niles' Weekly Register*, XXIX, 133 (October 29, 1825).

⁴¹ Adams (ed.), *Memoirs*, VII, 55 (November 19, 1825).

Clay objected to this and insisted that it would be "equivalent to a total abandonment of the claims." He suggested that the "issuing of letters of marque and reprisals" be recommended to congress. He thought that such a step would not be war, but if the executive was not willing to go so far, he was at least "for intimating to Congress that such measures would be advisable if France should continue to disregard the representations of our Minister." James Barbour, who was at the head of the war department, was opposed to Clay's suggestion. He expressed the opinion that any sort of reprisals "would be war, or certainly lead to war." Barbour explained that the claims "though considerable, were of long standing." He thought "that nobody in this country had the remotest idea of going to war for them; that, except among the claimants, there was not much excitement concerning them." It was also his opinion "that to talk of going to war would excite more surprise than approbation." Clay then proposed three alternatives, "to recommend reprisals immediately, to recommend them prospectively and contingent, and to say nothing about them. He would like the first best, but either better than my abandonment of the claims, as he thought it would be generally considered to be." Richard Rush, the secretary of the treasury, agreed with Clay. The secretary of the navy, Samuel L. Southard, seemed to take a middle ground.⁴²

President Adams rewrote this portion of the message in an attempt to harmonize the views of the cabinet. In this draft the "suggestion that we ought in no event to resort to force to obtain indemnity for claims upon France was

⁴² *Ibid.*, 59-61 (November 23, 1825).

struck out, but the substitute I had prepared was thought to savor too much of a recommendation of reprisals. I am to find a middle term between the two.”⁴³

The message as finally delivered to congress informed that body that the claims had hitherto been urged without effect. Adams said that “were the demands of nations upon the justice of each other susceptible of adjudication by the sentence of an impartial tribunal, those to which I now refer would long since have been settled and adequate indemnity would have been obtained.” He promised that the claims would not be “forgotten while a hope may be indulged of obtaining justice by the means within the constitutional power of the Executive, and without resorting to those means of self-redress which, as well as the time, circumstances, and occasion which may require them, are within the exclusive competency of the legislature.”⁴⁴

There was developing among the public a demand that more drastic measures be taken to secure an adjustment of the claims. A mass meeting of interested citizens was held at Philadelphia in January, 1826. At this meeting resolutions were passed urging the appointment of a special mission to France to negotiate regarding the claims, and in the case of the failure of this mission that efforts of a more forcible character be undertaken by the federal government.⁴⁵ Congress, in an effort to appease the claimants’ demand for action and to determine the extent of the

⁴³ *Ibid.*, 61 (November 25, 1825).

⁴⁴ James D. Richardson (ed.), *A Compilation of the Messages and Papers of the Presidents, 1789-1902*, 10 vols. (Washington, 1903), II, 299 ff.

⁴⁵ *Washington National Intelligencer*, January 27, 1826.

claims, passed a resolution in May, 1826, requesting that all claimants file with the secretary of state certain specified information regarding their claims. A few weeks later an article appeared in the *North American Review* giving the history of the negotiation. In commenting on the resolution of congress the editor said that with such information before congress and the people it would not be easy to "refrain from some energetic steps for procuring redress."⁴⁶

Brown had continued in vain his efforts to separate the two principal questions in dispute between the countries. He wrote Clay a private letter in which he asserted that France would never agree to separate the two questions.⁴⁷ The American newspapers got the information that France had refused to pay the claims. While the editors generally admitted that the matter must rest where it was at the moment, the hope was expressed that the claims would not be relinquished.⁴⁸

The schedule of claims which congress had asked for in its resolution of May 19, 1826, was sent to it on January 30, 1827.⁴⁹ Congress had also received numerous memorials from interested individuals urging that some action be taken. Neither the facts that had been placed before it nor the petitions of the American people brought any radical action from congress. The respective committees of the two houses charged with examining the matter advised the continuance of diplomatic negotiations and expressed the

⁴⁶ *North American Review* (New York), XXIII (1826), 385-414.

⁴⁷ Brown to Henry Clay (private), April 13, 1826, in Notes from Ministers to France, XXIII.

⁴⁸ *Washington National Intelligencer*, December 25, 1826; *Niles' Weekly Register*, XXXI, 211 (December 2, 1826).

⁴⁹ Secretary of State to House of Representatives, January 30, 1827, in *A.S.P., F.R.*, VI, 384 ff.

hope that the ensuing summer would see the difficulties adjusted.⁵⁰

Clay, secretary of state, seemed to think that if some concession was made to France on the interpretation of the most-favored-nation clause, an adjustment of the spoliation claims might be achieved. He approached the president on the subject but found that Adams was opposed to allowing any indemnity.⁵¹ The president and the majority of the cabinet were willing to go no further than consent to the submission of the interpretation of the eighth article of the Louisiana treaty to arbitration.⁵² Instructions were sent to Brown to make this offer to the French government.⁵³ Adams had no hope that it would be possible to get any indemnity, but he thought this offer would tend to keep the subject alive.⁵⁴ When the offer to submit this question to arbitration was made to the French minister of foreign affairs, he immediately expressed the opinion that France would not agree to the plan.⁵⁵ Further attempts of the American minister to secure an answer to his communications were ignored by the French officials or met with trivial excuses for delay.⁵⁶ Brown became impatient and wrote Clay that "at no time to date has France been willing to acknowledge the claims."⁵⁷

⁵⁰ Committee on Foreign Relations to Senate, February 12, 1827; Committee on Foreign Relations to House of Representatives, February 23, 1827, *A.S.P., F.R.*, VI, 613-14.

⁵¹ Adams (ed.), *Memoirs*, VII, 267 (May 3, 1827).

⁵² *Ibid.*, 279 (May 26, 1827).

⁵³ Clay to Brown, May 28, 1827, in Instructions to United States Ministers, XI.

⁵⁴ Adams (ed.), *Memoirs*, VII, 279 (May 26, 1827).

⁵⁵ Brown to Clay, September 8, 1827, in Notes from Ministers to France, XXIII.

⁵⁶ Brown to Clay, December 28, 1827; February 27, May 12, July 29, 1828, *ibid.*

⁵⁷ Brown to Clay, October 12, 1828, *ibid.*

The negotiations were in this condition when the defeat of Adams in the presidential election of 1828 transferred the control of American foreign relations to other hands. For twelve years Adams had directed unsuccessfully the attempt to secure reparation for damages which had been committed on American commerce by the French state in the period between 1803 and 1812. The French government had never denied the justness of the American claims, but the unpopularity of the subject with the chambers had caused the ministers to seek excuses for delay. The American agents who had charge of the negotiation had expressed their belief that France did not intend to acknowledge the claims. It was evident that success could not be attained by the policies which had been pursued. A new administration would find itself free to adopt a policy that might offer promise of ultimate success.

CHAPTER IV

NEGOTIATION OF THE TREATY OF JULY 4, 1831

THE elevation of Andrew Jackson to the presidency in 1829 broke the practice of the American electorate of choosing for that office only men with extensive diplomatic experience. Jackson had had no such training. The new president had already given proof, in dealing with British subjects and Spanish officials in Florida, that he would not be likely to allow the niceties of diplomatic intercourse to interfere with his program. Rather, he had always shown a high regard for his personal honor and it was probable that he would show the same spirit in defending that of his country.

With Jackson in the presidency, the choice of a secretary of state of extensive diplomatic experience would have been logical, but political considerations made the selection of Martin Van Buren a foregone conclusion. While Van Buren lacked the European diplomatic experience and contacts which almost all of his predecessors had had, public opinion as expressed by the press of the time considered him a man of unusual ability, capable of mastering the details of foreign intercourse.¹ A later authority held the appointment to be the only good one in the cabinet, "for, however much confidence Jackson felt

¹ Washington *National Gazette*, quoted with approval in *National Banner and Nashville Whig*, March 24, 1829.

in his own ability to manage home affairs, he wanted a strong man to stand between him and foreign powers.”²

Without waiting to consult with the secretary of state, Jackson offered several of the higher diplomatic posts to friends whom he thought well fitted for the duties. The appointment as envoy extraordinary and minister plenipotentiary to France was offered to Edward Livingston of Louisiana and New York, a personal and political friend of Jackson.³ Livingston at this time was sixty-five years of age. He had been a representative in congress from New York, federal district attorney, and mayor of New York City. In 1804, he moved to Louisiana where he soon became a prominent political leader. He represented that state in the lower house of congress from 1823 to 1829, and in the latter year was elected to a senatorship. In addition to his political experience, he had acquired through his work on the codes of Louisiana a thorough knowledge of the laws under which France was governed. Livingston's close connection with Jackson began when he served on his staff at the battle of New Orleans.⁴

When Van Buren was informed by Jackson of the appointment he readily admitted that it was a meritorious one, but he thought that a younger man would be more likely to “resist the rebuffs to which, on such oft debated points, they must expect to be exposed and to submit to the drudgery thro’ which final success could be hoped for.” Jackson agreed, and would have been glad to recall

² Edward Channing, *History of the United States*, 7 vols. (New York, 1905-1932), V, 387.

³ John C. Fitzpatrick (ed.), *Autobiography of Martin Van Buren*, in American Historical Association, *Annual Report*, 1918, II (Washington, 1920), 251.

⁴ *Biographical Directory of the American Congress, 1774-1927* (Washington, 1928), 1232.

the appointment if it could have been done consistent with honor.⁵ Livingston had already given evidence that private business would make it impossible for him to get away to his post for some time. The administration felt that the state of the relations with France made it imperative to have the new minister at his post at as early a date as possible. It was determined, accordingly, to dispatch a letter to Livingston urging that he make immediate preparations to depart for France.⁶ Livingston desired to accept the appointment, but he found that he could not assume the duties of the ministership for at least three months. He was therefore compelled to decline the honor.⁷

The way was now open for Van Buren to pick an appointee for the mission, as Jackson had already informed him that "if it should become necessary to make new selections, he would expect me [Van Buren] to name the men, and that having confidence in my judgment it was more than probable that he would adopt them."⁸ When Livingston's letter declining the appointment reached Van Buren he showed it to James A. Hamilton, who had been acting as secretary of state before Van Buren's arrival and who was still assisting in the office. Hamilton suggested the name of William Cabell Rives of Virginia for the place, informing Van Buren that Mrs. Rives had made the remark that Van Buren "knew how to make friends, but not how to keep them." Hamilton thought that the appoint-

⁵ Fitzpatrick (ed.), *Autobiography of Martin Van Buren*, 251.

⁶ (Van Buren) to Edward Livingston, April 6, 1829, in Van Buren Papers, Division of Manuscripts, Library of Congress.

⁷ Andrew Jackson to Van Buren, April 20, 1829, in John S. Bassett (ed.), *The Correspondence of Andrew Jackson*, 7 vols. (Washington, 1926-1935), IV, 24. Van Buren to Livingston, April (19?), 1829; Livingston to Jackson, May 3, 1829, in Van Buren Papers.

⁸ Fitzpatrick (ed.), *Autobiography of Martin Van Buren*, 257.

ment of Rives to the post would prove that Van Buren knew "how to keep as well as to make friends." Van Buren concurred in the suggestion and asked Hamilton to go to the president and urge the selection of Rives. Hamilton found that Jackson was glad Livingston had made up his mind, and that he was willing to appoint Rives if he were able to make an early departure.⁹ The appointment was tendered Rives on this condition and he accepted.¹⁰

Although Rives at the time of his appointment was less than forty years of age he had attained considerable political prominence. He had been a member of four congresses. As a member of the house committee that had considered the Beaumarchais claims he had gained much detailed information concerning the relations between France and the United States which would be indispensable to his new post.¹¹

The change of administrations gave an opportunity for the interested public to express anew its desire that a settlement of the controversy be reached. Mass meetings were held in New York City and other places. At several of the gatherings resolutions were adopted requesting the president "to institute a special mission to the French government, with a view of requiring a definitive answer to the claims of the citizens of the United States upon that country."¹² The press generally felt that such a measure was unnecessary but it trusted Van Buren to do the wise

⁹ James A. Hamilton, *Reminiscences of James A. Hamilton*. . . . (New York, 1869), 138.

¹⁰ Van Buren to William Cabell Rives, May 5, 1829, in Van Buren Papers.

¹¹ *Biographical Directory of the American Congress, 1774-1927*, 1465.

¹² *Niles' Weekly Register*, XXXVI, 162 (May 9, 1829).

thing.¹³ The memorialists had their defenders. The New York *Mercantile Advertiser* said:

if the lawless and rapacious seizures of millions of neutral property; the conversion and retention of it for the use of the French nation; and the neglect or refusal to give an equitable indemnity, be not warrant for strong feelings and determined language, we must look for a new system of political ethics, out of which to learn, both the principles which should govern under such circumstances; and the phrases in which our grievances should be conveyed to the aggrieving party. We have resisted the doctrines of paper blockade, and impressment, in belligerent word and deed, and we know not why we should not resist the illegal seizures of our property, and violation of our rights, at least in strong language.¹⁴

In addition to the memorials that were sent from different cities, Van Buren received many private letters urging that a decided attempt be made to collect the claims. Generally, the correspondents suggested the use of a special mission.¹⁵ The secretary of state finally made it known that the administration was not willing to risk the peace of the country by appointing a special commission, but that the new minister would be instructed to use every means in his power to bring about a settlement of the claims.¹⁶

When Van Buren began the preparation of the instructions for the minister to France he found "that [the negotiation] with France to obtain indemnity for spoliation upon our commerce was in a condition apparently as hope-

¹³ Washington *National Intelligencer*, April 29, 1829.

¹⁴ New York *Mercantile Advertiser*, quoted in *ibid.*, May 6, 1829.

¹⁵ Van Buren Papers, May 4, 1829 ff.

¹⁶ Washington *National Intelligencer*, June 19, 1829.

less [as English negotiation] after having been discussed *ad nauseam* under successive administrations." ¹⁷ But the "home-bred" diplomat was not to be daunted by past failures. He sought the advice of those who were intimately acquainted with the progress of the negotiations.

Charles O. Clapp, in reply to Van Buren's request for his suggestion as to the policy the United States ought to pursue, wrote that "the citizens of the United States, whether justly or otherwise, are compelled to the belief, that their government have been inattentive to their interest and with a supineness derogatory to itself, acquiesced in the subtle policy of French protraction, while every change of Ministry, pursued the same system." He thought that Gallatin had pressed the claims until assured that further pressure would result in absolute rejection. Brown had failed to make any progress because of the introduction of the question of the interpretation of the eighth article of the Louisiana treaty. Clapp felt that the United States should include all differences in the discussion and that this offer would be met with corresponding generosity on the part of France. In case of the failure of this plan he proposed arbitration or settlement by a commission.¹⁸

James A. Hamilton was called on for advice. Hamilton suggested that Rives be given authority to conclude a convention for a definite sum, which should not be made too high. He suggested that a sum of five or even four million dollars would satisfy all just claims. To get as much or even a sum approaching it "would be a proud feather in

¹⁷ Fitzpatrick (ed.), *Autobiography of Martin Van Buren*, 272.

¹⁸ Charles O. Clapp to (Van Buren), April 9, 1829, in Van Buren Papers.

your cap." If Rives could avoid it he ought not to unite the several questions in controversy, but if necessary to secure a settlement he would be justified in so doing. Above all things "Rives ought to insist upon answers. The French have treated us to say the least uncivilly by delaying their answers to our communications sometimes for a half year or more."¹⁹ At Van Buren's suggestion, Hamilton visited Gallatin and asked his opinion. After the conversation with the former minister, Hamilton wrote again to Van Buren advising that he "take five millions if he could get it."²⁰

Another individual who was consulted freely by Van Buren was Samuel Smith, a former secretary of state, now a prominent merchant and politician of Baltimore. Smith thought that "discussion under the present state of the case has gone to its utmost extent, and cannot be renewed unless we give way." It was his opinion that the French claims (under the Louisiana treaty of cession) might be greater than those of the United States.²¹ A few days later Smith wrote the secretary of state to suggest the appointment of a confidential agent, a Frenchman, who would keep the minister informed. He had employed a man named Taussaud in his own work as foreign agent for a number of years. Taussaud was a friend of Neuville and of Jacques Laffitte, the banker, and of other influential people. Smith thought so much of him that he said if he were minister he would employ him, even if he had to pay him out of his own pocket. This letter ended by advising "that it is not well written notes, and long tedious

¹⁹ Hamilton to Van Buren, June 19, 1829, *ibid.*

²⁰ Hamilton to Van Buren, June 27, 1829, *ibid.*

²¹ Samuel Smith to Van Buren, May 11, 1829, *ibid.*

descriptions, that can succeed in France; it is sociability, intercourse, pleasantry—in fine what the French call ‘Les manières.’ The man must make himself acceptable to the ladies as well as to the gentlemen.”²²

The instructions for Rives were not finished until July 12. Van Buren found it very embarrassing to give the new minister particular directions regarding the claims. He felt that “you could get for the claimants what you may, and they will grumble just as much for the residue as if they had received nothing, whilst in advance they would be satisfied with much less.”²³ While the instructions were conciliatory in tone, they indicated that the United States government was determined to bring the claims question to a conclusion. The secretary of state gave a detailed résumé of the controversy, pointing out particularly the obstacles that had prevented an adjustment of the affair. He found that the principal difficulty in the way of an arrangement at the moment was the refusal of the American government to join the question of French claims under the eighth article of the Louisiana treaty of cession with that of the spoliation claims. The president wished the negotiations on the two subjects to be separate if possible, but “in the event of a failure to produce that result you shall agree to one embracing all matters in difference between the two countries.”

This willingness to negotiate was not to be taken by the French minister as an admission that the construction set on the treaty by his government was the correct one, but was to be considered only as an application of the prin-

²² Smith to Van Buren, May 14, 1829, *ibid.*

²³ Van Buren to Hamilton, July 13, 1829, in Hamilton, *Reminiscences*, 141.

ciples found in the letter of Baron de Damas to Mr. Brown, of the 11th November 1825:

It were erroneous to believe that the consent to negotiate implied an acknowledgment of the validity of those [the American] claims. Had this validity been acknowledged, no negotiation would have been necessary, and the only question would have been touching their liquidation. It is in order to discuss the rights of the American claims that the King's Government has declared its readiness to enter into communication with the Federal Government, . . .

Rives was to adhere to the interpretation which his government had already given the article in question.

The administration was opposed to submitting the claims to arbitration; but if France desired to adopt that mode of settlement, Rives was to accept it in general terms. Rives was instructed to accept a gross sum "in full satisfaction of all our claims, and as a definitive adjustment of all matters in difference between the two countries . . . to be distributed amongst the claimants by the United States; provided that sum shall bear a reasonable proportion to the actual extent of our claims," if France desired to make such an arrangement. Van Buren found it impossible to fix a sum which this government would deem just, but directed that any offer made was to be referred to the home government for consideration.

Van Buren thought that the Beaumarchais claims might be brought up as a set-off to the American claims. Although the secretary of state considered these claims shadowy, he advised Rives that the president would consent to a reduction of 1,000,000 livres in the amount which France might agree to pay in settlement of the American claims, to take care of them. The minister was to present

a full, frank, and energetic exposition of the rights and injuries of his country, but he was not to commit his country to an extreme policy.²⁴

In order to secure the united support of the claimants the secretary of state requested the appointment of a committee "with full power to commit them by their opinion and advice" with whom he could consult should such a measure become necessary.²⁵ As a result of this suggestion a meeting of a group of claimants was held in New York, at which it was agreed to appoint a committee "with full power to collect and furnish evidence in relation to our claims, and to confer with the Gov't of the U.S. on the subject, and to adopt and consent to such measures on the subject, as they may believe conducive to the interests of the claimants." This committee was vested with power to unite with similar groups from other localities.²⁶

The increased agitation in the United States for the payment of the claims, and the supposed change of policy which the recall of Brown and the appointment of Rives indicated, did not escape notice in the French press. The *Journal du Havre* saw in the mass meeting at New York nothing that would affect the president, but it felt that the two countries might become agitated over the question, in which case arbitration by a third party should be resorted to.²⁷ The Paris *Constitutionnel* took a very conciliatory attitude. It thought the claims just and urged that the differences be accommodated. The author of the ar-

²⁴ Van Buren to Rives, July 20, 1829, in Instructions to United States Ministers to France, XIV.

²⁵ Van Buren to Hamilton, July 13, 1829, in Hamilton, *Reminiscences*, 141.

²⁶ Washington *National Intelligencer*, November 3, 1829.

²⁷ Quoted in Washington *National Intelligencer*, August 17, 1829.

ticle saw in the whole controversy a plot of "St. James' to introduce coolness and the seeds of dispute between the two powers." He said that he had strong reason to believe that England was urging the United States to renew constantly their demands for indemnity and at the same time persuading France to reject them.²⁸ The Paris *Journal du Commerce*, on the other hand, was very unfriendly toward the United States. It asserted that the claims had occupied too important a place in the presidential messages; that they were not admissible; and that there was no hope of success for Rives in his mission.²⁹

The shifting political situation in France had brought in a new ministry under the leadership of the reactionary Prince Auguste J.A.M. de Polignac, who was also at the head of the department of foreign affairs. A Paris correspondent commenting on the political situation stated that

the present conjuncture, however, is unfavorable [for the presentation of the claims] as the Ministry of the country is in a precarious situation; pursued without mercy by a powerful opposition, which comprises five sixths of the wealth, talent, and energy of the nation, and so much occupied with the questions forced upon them by the internal condition of the country, the public discontents, and the questions growing out of the conquest of Turkey, it is very unlikely they will be willing to open their ears to anything coming from the opposite side of the Atlantic.³⁰

Rives arrived in Paris in August, 1829. The first discussion with Polignac on the claims question occurred in a conversation on November 2. In this interview, Rives

²⁸ Quoted in *Niles' Weekly Register*, XXXVIII, 160 (April 24, 1830).

²⁹ Quoted in *ibid.*, XXXVII, 35 (September 12, 1829).

³⁰ *Washington National Intelligencer*, November 3, 1829.

called the attention of the French minister to the claims question; to the fact that they had remained for a long time unsettled; to the desire of the president to cultivate friendly relations with his majesty's government; and to the fear that if they remained longer unsettled they would create feelings of "dissatisfaction and tend to impair" the good understanding which had heretofore existed between the two governments. The prince remarked that he "feared it had been decided on that they had nothing to do with the acts of Bonaparte." Rives replied "that we considered it an established principle that the acts of the existing Government of a country . . . attached to the nation, and devolved, with all their consequences and responsibilities, upon every succeeding Government which should administer the affairs of the nation, and that this principle had been practically admitted by his Majesty's Government at the period of the restoration, in the various indemnities granted to the allied sovereigns for injuries and losses proceeding from the acts of Bonaparte."

The prince felt that none of the cases for which indemnities had been granted were the same as the American, but Rives argued that any discrimination shown ought to be in favor of the American claims because of the consideration and friendliness shown by the United States in the prosecution of their claims. Rives reminded Polignac that his predecessors had never denied the admissibility of the claims and that some of them had even expressed favorable sentiments regarding them. The foreign minister admitted that he was not acquainted with the subject but promised "that whatever was just must be done." Rives was to be invited to another conference

as soon as Polignac had had an opportunity to acquaint himself with the papers.

This interview ended with a request by Rives that the examination of the papers be delayed as little as possible, as that which had already occurred had given "rise to feelings of discontent in the United States, which, if there should continue to be occasion of them, might derogate very much from the force of the motives now felt by both Governments to cultivate a friendly intercourse with each other."³¹

On November 19 Rives advised the secretary of state that he had not yet been summoned to the promised conference. He realized that

the modifications of the treaty of Adrianople in regard to the amount of the Turkish indemnity, and the military occupation of the Russians (which it is believed that this Government has co-operated with that of Great Britain in urging on the Emperor Nicholas), the changes of interior organization consequent on the new ministry, the surveillance of an active opposition, and lastly, serious divisions among the ministers themselves, have, it is supposed furnished full employment, for some time past.

Because of these facts he was disposed to wait an additional time for the summons.³² Three weeks later Rives, not having heard from the prince, asked for and was granted an interview.³³

The conversation opened with a statement by Polignac that he was not yet ready to discuss the question of claims

³¹ Rives to Van Buren, November 7, 1829, in Notes from Ministers to France, XXIV.

³² Rives to Van Buren, November 7, 1829, *ibid.*

³³ Rives to Prince Auguste Polignac, December 10, 1829; Polignac to Rives, December 10, 1829, *ibid.*

with Rives, but that a thorough examination of it was in progress. He then offered as his opinion several unfavorable observations as to the merits of the claims. Rives met the observations with counter-arguments. So far as a decision regarding the admissibility of the claims was concerned, no agreement was reached, but the interview revealed that "the Prince, under a sense of the precariousness of his situation, had not seriously turned his attention to a subject, of which it was doubtful how long he might have the official cognizance, and that he sought only to make the most plausible excuses for delay." Rives felt that as long as the state of uncertainty as to the ability of the ministers to maintain themselves continued, no effective negotiation could be commenced.³⁴

The attempts of Rives to impress upon the French cabinet the importance and seriousness of the American claims had met with little success. His efforts would probably have resulted in complete failure if Jackson had not made it evident in his annual message to congress that the administration was determined to force the issue to a conclusion. The president affirmed that in the conduct of foreign relations it was his settled purpose "to ask nothing that is not clearly right and to submit to nothing that is wrong." The executive found that the "claims of our citizens . . . remain unsatisfied, and must therefore continue to furnish a subject of unpleasant discussion and possible collision between the two Governments." Jackson affirmed that it was his hope, "founded as well on the validity of those claims and the established policy of all enlightened governments as on the known integrity of the

³⁴ Rives to Van Buren, December 17, 1829, *ibid.*

French Monarch, that the injurious delays of the past will find redress in the equity of the future.”³⁵

There was caustic criticism of this part of the message from newspapers which opposed Jackson’s administration. The *National Intelligencer* thought it sounded “too imperially” for a republican president. It was sure that Van Buren had nothing to do with that part of the message, for it was of too “bellicose a turn.”³⁶ The London *Morning Herald* carried a long article in which the message was criticized harshly. It said:

President General Jackson’s first speech as Chief Magistrate is, as all such documents are, a strange, unintelligible, desultory, rambling, and discursive essay, and the merits of which it is impossible to discuss fairly without breakfasting, dining, and supping upon the contents, and then sleeping upon them for at least seven hours . . .—and threatens France—proud, imperious France—with a declaration of war! This last piece of bravado is worthy of particular notice. We profess to be exceedingly pacific persons in our humble way; but we nevertheless, cannot help considering the passage referring to the claims on France as tantamount to a declaration of war. He admits that the discussion of these old claims is *unpleasant* and likely to lead to *collision*. This is rendered probable by the haughty and rather insulting tone in which he speaks of France. The claims, he says, are *just*. No enlightened Government he says, would resist them. He complains of injurious *delays*—he calls them claims of *irrefutable justice*, and he is resolved to press them in a spirit that will “evince the respect due to the feelings of those from whom the *satisfaction* is required.” What is the meaning of all this? Simply, that President Jackson decides upon the merits of

³⁵ Richardson (ed.), *Messages and Papers of the Presidents*, II, 443-44.

³⁶ Washington *National Intelligencer*, December 12, 1829.

those claims upon *ex parte* evidence. He calls the delays injurious before it is determined that they are well founded. He threatens *collision* upon merits yet unresolved, and complains of injustice even before the cause is fully heard and judicially determined! How Prince Polignac and the French people will stomach these insinuations and palpable insults it is not for us to say. The arrogance is insufferable, and the French, if they have any courage or spirit, are bound to resent them. If they do not we much mistake their feelings and character.³⁷

This article was copied in several of the French newspapers, among them the influential Paris *La Quotidienne*, which agreed with the London paper in its interpretation of the message.

In official quarters Rives found that the message created some coolness toward him. In order to find out the extent to which it was likely to influence his relations with Polignac, Rives broached the subject in an unofficial conversation. The prince felt "that the phrase 'possible collision' conveyed an intimation under which it was not very pleasant to act." Rives reminded Polignac of the gracious terms in which Jackson had spoken of the French monarch, and also of the fact that the communication was from one department of the American government to another and there was no "intention of holding a menace over the head of a foreign power." Polignac appeared to be satisfied and the matter was dropped.³⁸

It was in an interview on January 11 that the first apparent progress in the settlement of the outstanding controversy was made. Polignac had found time to study the

³⁷ London *Morning Herald*, January 8, 1830.

³⁸ Rives to Van Buren, February 16, 1830, in Notes from Ministers to France, XXIV.

documents and came to the conference with a definite program. His argument was that the United States could not "claim compensation for the injuries committed under the Berlin and Milan decrees"; for, however unjust in themselves, they constituted the law of the land at the time. The prince expressed the belief that if the United States considered Napoleon's government the lawful government of France, its acts in the form of law must be respected; "that if the Berlin and Milan decrees were to be treated as nullities, other acts of the same formal character should also be set aside," for example the cession of Louisiana. This was a formal act, but if Bonaparte had no just title to it he could not make a valid conveyance of the territory. Rives replied that under the established principles of public law Bonaparte had been recognized as the rightful sovereign of France and that therefore succeeding governments were responsible for his acts. These acts were of two kinds—first, those that sovereigns might rightfully perform and, second, those which no sovereign, however legitimate, might perform. In the first case the responsibility of succeeding governments is to "abide by and fulfil them"; in the second, "to correct and redress them." The Louisiana treaty came under the first class while the Berlin and Milan decrees fell under the second.

Polignac then observed that no reparations had been allowed to the nations of Europe for damages committed under the decrees, although they were as applicable to them as to the United States. This observation brought from Rives the reply that while in fact the decrees were directed against all nations, in practice their effects had fallen almost exclusively on the neutral commerce of the United States.

Polignac thought that it would be impossible to redress all the wrongs of Bonaparte and suggested that some discrimination be made among them, mentioning as an example of acts which he considered worthy of compensation, vessels burned at sea. Rives felt that his government could not relinquish any of the claims of its citizens; but in order to ascertain how far France would be willing to go in making remuneration he inquired if redress would not embrace the cases where seizures had been made, professedly under the Berlin and Milan decrees, but which those decrees had not authorized; and those cases in which property had been condemned and sold without reference to any judicial tribunal. The foreign minister gave an affirmative reply. At the close of the interview Polignac promised to send Rives a note in which he would outline the policy of his government.⁸⁹

The foreign minister was not very prompt in sending the note, and so Rives sought explanations in another interview. Rives found that the prince, due to the press of other affairs, had not completed an examination of the papers and preparation of a report for the king. Polignac promised that as soon as he was ready to discuss it he would invite Rives to another conference. But Rives was impatient and he remarked to the prince

that it was impossible, by any form of words, to disguise the fact that a *crisis* must soon occur, if it had not already occurred, in the relations of France and the United States on this disagreeable subject; that it was alike inconsistent with the dignity of both governments that the question should remain much longer in its present condition; and that seeing the favorable state of our affairs, both with England and

⁸⁹ Rives to Van Buren, January 16, 1830, *ibid.*

Russia as developed in the President's message, it was for the government of France now to consider whether, by her persevering neglect of our just demands, she did not incur the hazard, at least, of our establishing more friendly relations with other powers, which, however reluctantly on our part, might alienate us from her.⁴⁰

This was strong language and, coming so shortly after the president's message, served to emphasize the determination of the American republic to bring the claims question to a conclusion.

The French ministry had been having considerable difficulty in getting sufficient grants from the chambers to care for the governmental expenses. In order to smooth the way for a continuance of the negotiations, Rives took advantage of an informal occasion to express to Polignac the fact that the United States was not desirous of doing anything "which would inconveniently embarrass the finances of France, or impose upon him, as minister, an ungracious and disagreeable task." The American government was desirous of putting the claims in train of adjustment, but would be willing to show a liberal regard to the convenience of France regarding time of payment.

On February 12, at an official conference, the foreign minister restated the decision of his government to make no indemnification for seizures arising under the Berlin and Milan decrees, but he renewed the promises made in the interview of January 11, to consider certain classes of cases favorably. Rives did not desire to relinquish the claims of his government for all property seized under those decrees; but, feeling that no agreement could be reached on them at that time, he was willing to push them

⁴⁰ Rives to Van Buren, January 28, 1830, *ibid.*

aside and get as much as he could. He asked that Polignac address him a note "embracing his propositions to the extent, at least, to which we were agreed." The prince assented, and also promised to include in it his proposition for a mixed commission to examine and liquidate the claims. The foreign minister said that he would have to secure the assent of the king and his colleagues, and because of the press of other business he thought it would be several days before he could be prepared to see Rives.⁴¹

The two governments appeared at last to be on the road to a settlement of the differences. Since the French chambers had been called to meet on March 2, it was important that the brief interval be used to reach an agreement, for Rives could scarcely promise himself that the president of the council of ministers would find time for the affair after the legislative bodies had assembled. Rives' hope to push the affair to a conclusion was doomed to disappointment. Polignac became ill and was not able to work for three weeks. When he returned to his desk he found the press of other business so great that he was compelled to deny Rives' request for an interview.⁴²

The situation was further complicated by the appearance of articles in the Paris *Constitutionnel* bitterly attacking the American demand for claims. In order to counteract its influence, Rives enlisted the aid of Marquis de Lafayette and through his good offices was able to get published in the Paris *Courier Français* three articles that presented the American claims in a more favorable light.⁴³

Rives felt sure that the French government would not

⁴¹ Rives to Van Buren, February 16, 1830, *ibid.*

⁴² Rives to Van Buren, February 25, 1830, *ibid.*

⁴³ Rives to Van Buren, March 3, 1830, *ibid.*

acknowledge the validity of claims under the Berlin and Milan decrees because of the fear that a principle would be established that would subject the government to unlimited claims. But Polignac had said that they would go as far as they could, "in payment of cases which might be distinguished by a peculiarity of circumstances." Upon examining the specific cases Rives found that there were special reasons, independent of the illegality of the decrees themselves "(as for example, that the condemnations were in contravention of the convention of 1800, were not made by regular prize tribunals, or in the forms prescribed by law, etc.)," for setting aside condemnations under them. He therefore determined to draw up an article which should provide for the payment of certain specified claims and which should provide that "they should pay for all other cases of condemnation which from any consideration, a mixed commission should decide that his Majesty's Government was justly bound to make compensation for." In this way he hoped to accommodate the views of the French government and at the same time gain his own ends.⁴⁴

When Rives presented the project unofficially, Polignac found it exceptional in "that it took no notice of the French claims; that the claims on both sides ought to be examined at the same time; and no money paid till the liquidation had been completed, and the claims deducted from those on the other." The envoy had not included the French claims because he had not understood the nature of them, but he felt "that the Government of the United States would not object to an arrangement fairly reciprocal, providing for all claims of French subjects against the

⁴⁴ Rives to Van Buren, February 25, 1830, *ibid.*

United States which should be *founded on the same* principles with those of American citizens against France." The foreign minister asked permission to keep the draft, promising to give it a closer scrutiny and to send Rives a counter-project in a few days.⁴⁵

The opposition to the ministry had become so strong in the chambers that it was impossible for the French government to continue in power without an appeal to the country. Accordingly, the chambers were dissolved on March 18 and new elections set for the last of June and the first of July. The ministers were so deeply concerned with the approaching election and the apparent political crisis that they had little time to devote to a consideration of foreign affairs.

Thus far the question of the interpretation of the eighth article of the Louisiana treaty of cession had not been brought into the discussion. But in acknowledging receipt of the project, Polignac said that he was not yet prepared to express an opinion on it, "but to judge of it by the disposition you have expressed to me verbally on the part of your Government, to do justice to the reclamations of France, and particularly to that which she presents in virtue of the eighth article of the treaty of cession of Louisiana, I cannot but hope for the prompt and happy solution of a question so long continued."⁴⁶

In view of the conversations which had taken place, Rives felt that this was taking too much for granted. Accordingly, he requested the opportunity of a verbal conference, "as best fitted for the detailed explanations it may require."⁴⁷ This request was denied and the positive asser-

⁴⁵ Rives to Van Buren, March 21, 1830, *ibid.*

⁴⁶ Polignac to Rives, March 19, 1830, *ibid.*

⁴⁷ Rives to Polignac, March 20, 1830, *ibid.*

tion made that "we have agreed, with regard to it, that that article ought to be understood as France has always understood it." The only question that remained to be answered was the amount of indemnity to which France was entitled.⁴⁸ Nothing was left for Rives to do but to deny this interpretation. He found that his government had "constantly denied, and can never admit, unless its opinions should undergo a radical and unexpected change, the construction of that article heretofore asserted by the government of France." He had not intended to authorize a contrary inference in any of his conversations nor was he able to recall anything sufficient to support such an inference.⁴⁹

In an interview a few days later with Polignac, Rives found him still insistent on the French interpretation of the treaty of cession but seemingly not disposed to make the acceptance of their interpretation a condition of a further prosecution of the negotiations. Rives found that the "enlightened people" of France supported the government in its "pretension." He felt, therefore, "that this pretension will not be gratuitously abandoned." To persuade France to relinquish its claim, the United States, he had thought, might grant some other commercial easement such as a reduction of the duties on French wines, which would prove at the same time advantageous to the United States. He knew that a "proposition for the *unconditional* repeal of all duties on wines, silks, and some other productions of France" had already been made in the senate. He thought it would be wiser not to "*give away* what fairly entitles us to an equivalent."⁵⁰

⁴⁸ Polignac to Rives, March 23, 1830, *ibid.*

⁴⁹ Rives to Polignac, March 26, 27, 1830, *ibid.*

⁵⁰ Rives to Van Buren, April 6, 1830, *ibid.*

Rives sought an opportunity for a conversation with the prince, but he was forced to be content with a conference with Baron Deffandis, the second director of the department of foreign affairs. In this interview he was informed that a note was being prepared for him and that a committee was making a detailed study of the claims, preparatory to making a report to the minister. Rives sought to impress the baron with the correctness of the American interpretation of the Louisiana treaty, but he found that individual insistent on the French viewpoint.

In order to influence the decision of the committee that was examining the American claims, Rives secured the service of "Mr. [Alexandre Edme] Méchin, a French advocate of great intelligence and probity, who, by his marriage with an American lady, having a personal interest in the claims, and representing, professionally, the interests of some other claimants . . . could properly communicate with them . . . without appearing to come from me." The envoy thought that no effectual advance could be made in the negotiation until the report of the committee had been laid before the minister.⁵¹

The negotiations had been at a standstill for two months; the Louisiana question was threatening to disrupt the conversations; the new elections were near, and the chambers were called for the first of August, when the political future of the ministers would be at stake. If success were to be achieved it appeared that something must be done without further delay to bring the affair to a practical and successful conclusion. In this state of things, Rives decided to follow out the suggestion he had made to

⁵¹ Rives to Van Buren, May 18, 1830, *ibid.*

Van Buren at an earlier date ⁵² of offering a "commercial easement" in lieu of the privileges under the Louisiana treaty.⁵³

The gradual reduction of the discriminating duties under the provisions of the commercial treaty of 1822 and the decline in French shipping made the privileges claimed under the Louisiana treaty of a nominal value to France. The vine growers of France were suffering from a curtailment of their market because of the retaliation that resulted from the imposition of duties on foreign irons and linens which were imported principally from the northern parts of Europe. At that time there was a petition before the government from the wine producers asking for some relief. If a considerable reduction in the duties imposed on French wines were made by the United States an almost unlimited market might be secured, for the taste for French wines was just beginning to be formed in the United States. Lower rates of duties would probably influence the American public definitely in favor of French products. If this opportunity were neglected, the habits of using other drinks might be established and thus the market lost to France. Rives also suggested that the discriminatory duties levied on American cotton be abolished. He thought that such a program would meet with the approval of the French industrialists, who had found the fields of India and Egypt insufficient to meet their needs. In addition, this plan would be beneficial to the American farmers.⁵⁴

⁵² See *ante*, 65.

⁵³ Rives to Van Buren, May 20, 1830, in Notes from Ministers to France, XXIV.

⁵⁴ Memoranda with Rives to Polignac, May 20, 1830, *ibid*.

The value of this suggestion of Rives did not escape the president of the council of ministers who at the moment was seeking every means to strengthen his government with the people. Although Polignac had dispatched a letter bearing the same date as the above memoranda "indefinitely adjourning" the negotiation as long as "the Government of which you are the representative persists in rejecting the interpretation we have never ceased to give to the eighth article of the treaty of cession of Louisiana,"⁵⁵ he found the suggestion "of terminating, by a sort of compromise, the differences existing between our two Governments . . . too conformable" to his own sentiments "not to have engaged all my attention."⁵⁶

It soon became evident from the interpretations which the two governments placed on the contested articles⁵⁷ that an adjustment would have to come from a compromise. The proposition which Rives had made on May 20 brought an inquiry from the prince as to whether such a privilege would be perpetual. Rives replied that it was his idea "to make it absolutely binding and obligatory upon the Government of the United States during the period which might be agreed upon for its continuance."⁵⁸ This view of the situation made possible further negotiations along the lines of a compromise.⁵⁹

The internal situation of France was making a continuation of the negotiations difficult. Polignac had felt compelled to turn the affair over to Deffandis, who had no

⁵⁵ Polignac to Rives, May 20, 1830, *ibid.*

⁵⁶ Polignac to Rives, May 31, 1830, *ibid.*

⁵⁷ Rives to Polignac, May 26, 1830; Polignac to Rives, June 15, 1830; Rives to Polignac, June 25, 1830, *ibid.*

⁵⁸ Polignac to Rives, May 31, 1830; Rives to Polignac, June 2, 1830, *ibid.*

⁵⁹ Polignac to Rives, June 15, 1830, *ibid.*

authority to make definite decisions. The elections had gone against the ministry; therefore, its political life was limited. There was only one thing that gave Rives hope that some agreement might yet be reached. France had conquered Algeria and the French people wished to hold the conquest. The states of Europe were opposed to France's retaining possession of the country; and if the state held the region it would find itself isolated in Europe, in which case the friendship of the United States would be of great value.⁶⁰

It was at this uncertain state of the negotiations that the July revolution intervened and put an end to any immediate prospects of an adjustment of affairs. The revolution had not been unanticipated by Rives. On June 29 he had written the secretary of state that "the present state of things here is little short of an interregnum."⁶¹ The very close contact which he maintained with the Marquis de Lafayette probably gave him some inside information as to the course of affairs.

The dispatches of Rives to Van Buren were full of praise for the revolutionists. Although he undoubtedly welcomed the change in the system of government of France, he did not find that it offered any prospect for an early settlement of the difficulties. The minister thought that the liberal party would be more opposed to the claims than had been the royalists. He felt that the liberals "from their popular attachments and connexions, have more sympathy for the public purse, while, from their former connexions with the imperial authority, they are less inclined to admit the iniquitous character of the acts for

⁶⁰ Rives to Van Buren, July 17, 1830, *ibid.*

⁶¹ Rives to Van Buren, June 29, 1830, *ibid.*

which we demand indemnity." The latter consideration and the principle of national sovereignty "established by the revolution which has just taken place, will, in all probability, prevent them from recurring to the ground of *irresponsibility* for the acts of preceding governments." A factor which operated in favor of the settlement of the American claims was that which had already been accomplished. Rives expected that great reluctance would be manifested in the payment of any claims, and in the event of an agreement being reached the responsibility of the French government would be limited to as small a sum as possible.⁶²

In the United States the news of the French revolution was joyously received in every quarter. In almost every city, and especially in New York and Washington, the "glorious" event was celebrated in a fitting manner.⁶³ It was not until after the first bursts of acclamation that the editors began to consider the probable effect of the revolution on the American claims. The press appeared to be practically unanimous in the feeling that with the disappearance of the Bourbons the last obstacle in the way of an adjustment of the differences between the two countries had vanished. The *Washington United States Telegraph* expressed the hope "that our intelligent Minister will finally succeed in his negotiation. We see in Lafayette a man who is capable and desirous of serving both countries—and it is to be presumed, that, with a freer gov't a more liberal tone of feeling will prevail. Justice has long called for indemnity for our merchants."⁶⁴ *Niles' Weekly*

⁶² Rives to Van Buren, August 8, 1830, *ibid.*

⁶³ *Washington National Intelligencer*, October 28, 1830; *New York Daily Advertiser*, November 29, 1830.

⁶⁴ *Washington United States Telegraph*, October 7, 1830.

Register found that the news of the settlement of the question was eagerly expected in Great Britain "from the favorable crisis in French affairs and the great influence Lafayette now exercises in French councils."⁶⁵

The new instructions, which the department of state sent out with Rives' letter of credence, continued the same instructions that had been given to guide his conduct with the Bourbon regime. Van Buren regretted that the negotiations had not been concluded with Polignac's government, but hoped "that under dispositions equally, or still more favorable, upon the part of the present Government, that that important business will be speedily and satisfactorily terminated." If Rives deemed it wise he could

explicitly state that the known sympathies of the people of the United States, as far as they have been exemplified . . . are universally and enthusiastically in favor of that change, and of the principle upon which it was effected; that in proportion to the extent of these sentiments, and of the degree of their confidence in the enlightened wisdom and equitable councils of those who have been called to the administration of that Government, their disappointment would be so much increased by further unnecessary procrastination in the adjustment of the claims referred to.⁶⁶

The government finally organized by the French had at its head Louis Philippe, who ruled under a more liberal charter than France had had under the Bourbons.⁶⁷ The new king of the French had at one time been a political exile in the United States where he had earned a livelihood

⁶⁵ *Niles' Weekly Register*, XXXIX, 106 (October 9, 1830).

⁶⁶ Van Buren to Rives, September 27, 1830, in *Instructions to United States Ministers to France*, XIV.

⁶⁷ Emile Bourgeois, *History of Modern France, 1815-1913*, 2 vols. (London, 1922), I, 118.

by teaching French. His sojourn in America had brought him in contact with a number of prominent citizens, among them Robert Livingston, who had befriended him. At his first meeting with Rives the king recalled his early experiences and friendly interest in the United States and assured the minister that he would, as king, exert every effort in his power to settle the differences between the two countries.⁶⁸ The department of foreign affairs was placed in the hands of Count Louis M. Molé. He had held numerous political posts under the emperor, but he had never been connected with foreign affairs.⁶⁹

During the early weeks of the reign of Louis Philippe the real power lay in the hands of the Marquis de Lafayette, whose official station was commander of the national guard. His influence was exerted to bring about a settlement of the difficulties between the two states. Lafayette's colleagues considered him prejudiced in favor of the American position; consequently, his most effective assistance was rendered in giving the American minister semiofficial information as to the course of affairs in France.⁷⁰

Although Rives felt that the leaders of the French state were much more in sympathy with the American demands than ever before, he believed that certain considerations would probably make it very difficult to arrive at a final settlement.⁷¹ In his first interview with Count Molé, he found that minister ready to admit the responsibility of

⁶⁸ Rives to Van Buren, August 18, 1830, in Notes from Ministers to France, XXIV.

⁶⁹ *Ibid.*

⁷⁰ Rives to Van Buren, December 29, 1830, *ibid.*; December 30, 1830, in Van Buren Papers.

⁷¹ See *ante*, 69.

France for claims; but the count found the question of the "amount due a very complex one, depending on a great many considerations, and requiring minute and detailed examination." Molé considered that much opposition would be manifested in the chambers to the appropriation of any funds for such a purpose. In order to prepare them for an ultimate decision, he was planning to advise the appointment of a commission from the two bodies to study the question.⁷²

Rives expressed the opinion in a private letter to Van Buren that the justice of our claims had been acknowledged by the French government but that "a mere *sense of justice* is a motive far too weak" to overcome the reluctance to pay claims of so large an amount. He thought that France desired to preserve "amicable and even cordial relations with us. But it is difficult to convince them that these relations are at all put in jeopardy by the refusal to pay our claims." France thought that the United States would never go to war for them, he stated, and that our interests would restrain us from adopting any measure directed against her commerce. Rives believed that the "energetic language of the President's message . . . gave them some uneasiness on this subject; but after they got over their *fit of the pouts*, they persuaded themselves that it was only meant to pacify the claimants." The French ministers in Washington were constantly advising their government that interest in the subject was confined to a few individuals on the seacoast. France must be made to feel that the people of the United States were united in their demand for redress of the grievances, and that the

⁷² Rives to Van Buren, September 18, 1830, in Notes from Ministers to France, XXIV.

continuance of friendly relations, both political and commercial, would depend upon a just settlement of the claims. In order to accomplish this, Rives felt "that the president's message at the opening of Congress should continue to present a firm and dignified attitude upon the subject of the claims, to treat them as a *national* question, upon which the rights and honor of the whole nation are identified, and the adjustment of them as entering deeply into the general relations of the two countries." A few phrases should be added intimating that a firm friendship would develop between the two countries when this difficulty was removed. These phrases would prevent the French from taking offense at the first part.

It was also suggested that it would be well to secure some expression from congress to show France that the representatives of the people "consider this question not as one of individual interest only, but involving the rights and honor of the nation." If ulterior steps became necessary, Rives thought that "short of the three remedies of war, or reprisals, or a *total suspension of commercial intercourse*," the "interests of France might be sensibly touched by partial changes in our commercial regulations, if necessary (as for example repealing the discrimination in favor of her silks . . .)." ⁷³

On September 29, Rives dispatched another private letter to Van Buren in which he reiterated the opinions as expressed in the private letter of September 18. He added to his earlier suggestions the advisability of having that portion of the message relating to the naval establishment phrased in such a manner as to make it appear that the United States was husbanding her naval resources. He

⁷³ Rives to Van Buren, September 18, 1830, in Van Buren Papers.

thought that the probability of a war in Europe would keep the recommendation from being too pointed and at the same time it would have its effect.⁷⁴

Rives sought from the foreign minister some definite information as to the policy of the new government in regard to the claims, so that the president would know how to treat the matter in his message to congress.⁷⁵ His first attempt brought a brief, cold, and cautious reply from the foreign minister, in which Molé advised that he would submit the matter to the king and that as soon as his majesty made known his intentions Rives would be informed.⁷⁶ This reply was very unsatisfactory to Rives, who let it be known in circles that had familiar relations with the count that the reply was considered unfavorable by him and that "unless something more explicit should be sent very soon, the President, while announcing the amicable settlement of our differences with all other powers . . . would be compelled to say that our differences with France alone remain unadjusted, and that the new Government had evinced less disposition to do justice than its predecessor, with whom the subject was believed to be in train of early adjustment."

A few days later, Rives was granted an interview in which he was informed that a report had been made to the king which his majesty had approved. This report recommended the resumption of the negotiation with Rives, and proposed as a first step the appointment of a commission, "consisting of members of both Chambers, to consider and report their opinions on the respective

⁷⁴ Rives to Van Buren, September 29, 1830, *ibid.*

⁷⁵ Rives to Louis M. Molé, September 20, 1830, in Notes from Ministers to France, XXIV.

⁷⁶ Molé to Rives, September 25, 1830, *ibid.*

claims of the two Governments." Rives thought that "in the composition of this commission, if I have not been misinformed as to the characters and dispositions of its members, there seems to be a pledge of a determination to do something on the subject of our claims."⁷⁷

The influence of Rives' suggestions was seen in the annual message of 1830. The president gave a frank exposition of the condition of the negotiations and stated that he considered "an earnest prosecution of them by this Government an urgent duty." The progressive development of "a firm and cordial friendship," the executive thought, depended upon the removal "of this old and vexatious subject of difference." This part of the message ended with a handsome compliment to "the character of the French people" and to the "Monarch who now presides over their councils."⁷⁸ The president had given Rives all of the aid he could, but it would be January, 1831, before the message would be known in France. The American minister had no intention of waiting idly for the aid which he hoped the document would bring him.

In the meantime the American minister succeeded in getting an official note from the French minister of foreign affairs advising him as to the appointment of the commission for the examination of the claims.⁷⁹ He then set to work through unofficial agents to present the American

⁷⁷ Rives to Van Buren, October 19, 1830, *ibid.* A copy of the report made to the king fell into the hands of Rives a few weeks later. Rives to Van Buren, March 10, 1831, *ibid.*, XXV.

⁷⁸ Richardson (ed.), *Messages and Papers of the Presidents*, II, 506.

⁷⁹ Molé to Rives, October 19, 1830. This dispatch was not received in Washington until after the delivery of the presidential message. Rives was advised to explain in the "proper quarter" why no favorable notice was taken of it. See Daniel Brent to Rives, December 24, 1830, in Instructions to United States Ministers to France, XIV.

claims to the commission as forcefully as possible. Rives' representatives seem to have had the confidence of some of the members of the commission, and thus they succeeded in placing the claims before them in a favorable light. Despite his best endeavors he found that some of the members of the commission were strongly opposed to the claims, while those favorably disposed were inclined, because of pecuniary considerations, "either to protract the adjustment, or to make a great reduction in the amount, of the claims."⁸⁰

In an interview with the French king on January 14, Rives expressed to him "the especial reliance" which the president placed "on the virtuous and distinguished qualities of his Majesty, to bring to a speedy and happy termination the differences between the two countries." The king reiterated the sentiments he had expressed in an earlier interview of friendliness toward the United States and of a desire to bring to a happy conclusion the differences dividing the two countries. The king also expressed regret that "the President could not have felt himself authorized, in his message to assure Congress that every thing had been done with that view which could have been done." Louis Philippe assured Rives that since he had read "the President's message he had 'remonstrated' against all unnecessary delays in the prosecution of the business, and assured me that everything should be done, on his part, to bring it to the earliest termination, notwithstanding the disastrous state of their finances."

Evidence that the king had "remonstrated" against unnecessary delay was found in the fact the American min-

⁸⁰ Rives to Van Buren, November 8, December 18, 1830, in *Notes from Ministers to France*, XXV.

ister received a note from a member of the commission that had been appointed to examine the claims, informing him that the minister of foreign affairs had brought pressure to bear upon them to expedite their business. In an informal conversation the minister himself took occasion to assure Rives that the commission was actively prosecuting its labors.⁸¹ While the commission was continuing its investigations, Rives did not feel that it would be to his interest to institute pressure upon it to bring about the presentation of the report. He did keep in touch, through unofficial channels, with the progress of the work of the commission and he was constantly reminding the minister of foreign affairs of the desirability of an early adjustment of the differences between the two countries in order that the relations between the states might continue to be friendly.

On February 18, Rives gave Van Buren some information regarding the expected report of the commission. He had heard

that it is favorable throughout to the principle of our claims. It excludes, however, the claims of American citizens in the nature of debt, or for supplies, as being alien to the general scope of the controversy between the two governments, and also American claims of every description, originating previous to the date of the Louisiana arrangement in 1803, which had been invariably alleged by this Government to be in full satisfaction of all claims then existing. It also assumes the original cost of the shipments, and not their enhanced value, actual or speculative, in the markets of Europe, to be the fair average measure of compensation, in a political transaction like the one in view. It sets, I understand, in a strong

⁸¹ Rives to Van Buren, January 18, 1831, *ibid.*

light the atrocious character of the acts of the Imperial government towards the United States, and enforces the obligation of the government of France to indemnify our citizens for the wrongs they sustained by those acts, whether committed under the sanction of the Berlin and Milan Decrees, or by virtue of other orders and proceedings less formal and regular in their character. On these points however, it does not, I hear, meet with a thorough acquiescence, on the part of all members of the commission.⁸²

It was not until March 28 that a partial report of the commission was made to the foreign minister. Rives was able to ascertain fairly accurately the contents of the report. He found that it was not as favorable as he had anticipated. The commission was divided, a majority group of four and a minority of two. The majority of the commission defended the general system of measures adopted by the imperial government, "comprehending the Berlin and Milan Decrees, as well as the Rambouillet and other special decrees, as being justified, on the principles of the law of nations, by the conduct of the British government on the one hand, and that of the American government, on the other."

As a result of this view they considered only three categories of claims as admissible: vessels burned at sea; captures made after the first of November, 1810, the period fixed for the repeal of the decrees; and cases in which the decrees may have been applied retrospectively. The minority of the commission "considering this whole system of measures as violating the principles of the law of nations, as well as the provisions of the convention of 1801, until the period of its expiration, recognize our claim to

⁸² Rives to Van Buren, February 18, 1831, *ibid.*

indemnity, in all cases where it was applied, whether regularly or irregularly, to a fair and bona fide commerce." The majority considered that from ten to fifteen millions of francs would satisfy the just claims against France, while the minority fixed the responsibility of the country at thirty millions. The commission was unanimous in affirming the correctness of the French interpretation of the eighth article of the Louisiana treaty.⁸³

In a private letter to James A. Hamilton, Rives stated that the report of the commission was not as unfavorable as it might have been. He also expressed the opinion that a settlement would be made for a lump sum. The envoy had had no instructions as to the amount for which the claimants would be willing to compromise. The most authoritative information in his possession was that given by Hamilton himself, who suggested "six millions if we can, five millions if we must." The envoy very emphatically repudiated the assertion being made in the American press that the revolution in France had made it easier to secure a settlement of the claims. He thought "that with a little more time I should have made a more advantageous arrangement with the last government; as great as the difficulties were that I had to contend with."⁸⁴

When the news of the formation of a committee to examine the American claims reached the United States the feeling of a large portion of the population, as expressed by *Niles' Weekly Register*, was that, "we have expected a proceeding like this from regenerated France. It could not have been hoped for under the late condition

⁸³ Rives to Van Buren, March 30, 1831, *ibid.*

⁸⁴ Rives to Hamilton, March 24, 1831, in Hamilton, *Reminiscences*, 200-201.

of things.”⁸⁵ This sort of comment aroused Rives’ ire. In a very spirited private letter to Van Buren, the minister asserted that statements of this nature did a great injustice to the administration of General Jackson. Rives thought that whatever was ultimately accomplished would be due to “the ground conquered under the ministry of Monsieur Polignac, in circumstances certainly as unfavorable, if not more so, than that which ever before attended the negotiation.” Rives considered that this was due to

the *system of action* introduced by the administration of Gen’l Jackson, which substituted for the coaxing, begging, and *hoping* diplomacy of former administrations, a firm and energetic language, worthy of a nation whose rights had been violated, and determined at all events, to have an *answer* to its demands of redress. It was the noble declaration that “he would ask nothing but what is right, and submit to nothing which is wrong,” followed with a hint of “possible collision” which has done it all. Diplomacy in questions of right must be backed by something more than appeals to magnanimity, persuasion, coaxing and compliments, or it will ever be powerless if not ridiculous.⁸⁶

Count Horace François Sebastiani, who had assumed the duties of the foreign office, had not had time to examine the report of the commission before Rives was seeking an interview with him. The American envoy found that the count was convinced, although he had read the report only in part, that the American claims were greatly exaggerated. Rives offered several observations which tended to place the amount of the American claims in a more favorable light. As for the interpretation of the

⁸⁵ *Niles’ Weekly Register*, XXXIX, 319 (January 1, 1831); XL, 92 (April 9, 1831).

⁸⁶ Rives to Van Buren, February 14, 1831, in Van Buren Papers.

eighth article of the Louisiana treaty, Sebastiani found that the interpretation of the French government was "so clear and incontestable" that he was surprised the American government had ever insisted on a different interpretation. Sebastiani was so positive in his stand on the Louisiana question that Rives was convinced that the only hope of settlement lay in some sort of compromise such as that which he had proposed to Polignac.⁸⁷ As the French statesman was not prepared to make "any specific offer, with a view to a transaction, till he had the sanction of the council," the interview terminated with a promise of the minister to bring the affair to a close as quickly as possible.⁸⁸

The dilatoriness of the French in making a final decision was matched by the persistence of the American minister, who constantly put before the foreign minister and other leaders of France the necessity of reaching a speedy settlement of the controversy for the preservation of friendly relations and the consolidation of the friendship of the two states. On April 26, Rives was given an interview in which he was informed that his "Majesty's Government, in its sincere desire to give satisfaction to the United States, had determined not to limit itself to the sum indicated by the commission, but in a spirit of signal good faith, had authorized him to propose the sum of fifteen millions of francs as a definitive adjustment of all the subjects in controversy between the two countries." Rives immediately rejected this offer as a "mockery, and equivalent to an absolute refusal of justice" and if it was

⁸⁷ See *ante*, 67-68.

⁸⁸ Rives to Van Buren, April 14, 1831, in Notes from Ministers to France, XXV.

a definitive proposition on the part of France it remained for each government "to recur to its rights, and its sense of its own dignity and honor." The foreign minister insisted that Rives reflect upon the offer, but the American envoy repeated his earlier declaration.⁸⁹

Rives decided that an appeal to the president of the council of ministers and to the king himself might be fruitful. In an interview with Casimir Perrier, who was at the head of the ministry, he was informed that France desired to adjust the controversy but that there would be great difficulty in reconciling the chamber of deputies to an "additional charge on the enfeebled resources of the State." The president of the council said that Sebastiani would be authorized to make another offer and that he expected the United States to show a friendly consideration for the actual situation of France. Rives' appeal to the monarch brought similar professions of friendship for the United States and an appeal to the generosity of that state to take into consideration the embarrassed state of the finances of France.⁹⁰

The minister of foreign affairs received Rives on April 29, at which time the discussion of the amount to be paid was renewed. Sebastiani had been authorized by the ministry to offer twenty million francs in settlement of the claims. Rives found this sum inadmissible and offered evidence to prove that the American claims were of a much larger amount. The count considered that the damages were much exaggerated, but that "as a last evidence of the equitable and friendly disposition of His Majesty's government, he would agree to go as far as 24

⁸⁹ Rives to Van Buren, April 28, 1831, *ibid.*

⁹⁰ *Ibid.*

millions of francs payable by instalments in six years." This offer was to be considered by Rives as their "last word." Rives asserted that the United States was willing to make every practical concession "for the sake of terminating" this unpleasant discussion, but that the "abandonment of so large a portion of the amount claimed by its citizens was a sacrifice it could not make." The interview ended with the representative of each government contending for a final settlement that would meet the demands of his state.

A few days later Rives met Sebastiani and offered to compromise with him for forty million francs, whereas the schedule of claims originally submitted had amounted to ninety-two million. The foreign minister thought that France would never "consent to such a transaction." As it seemed to be evident that the negotiators could not agree on a definite sum, Rives suggested that they revert to his first proposal of reference of each individual claim to a mixed commission. Sebastiani objected to this plan, for he did not think that the government of France would be willing to put itself in the hands of a commission.

Once again, Rives decided that some favorable results might be obtained from an appeal to the president of the council. In the conversation with Perrier practically the same observations were made as in earlier interviews, and he added "that the Chambers would be exceedingly opposed to their payment; and that it was certainly not to the interest of either country to make an arrangement which the legislative authority here might refuse to carry into execution."⁹¹

The president of the council, in response to Rives' re-

⁹¹ Rives to Van Buren, May 7, 1831, *ibid.*

quest for an interview, granted another for May 14. The old arguments were repeated, but it appeared that the negotiators had reached a deadlock over the amount of indemnity. Perrier told Rives that the sum (forty million francs) he had named as being willing to compromise for was entirely out of the question. He therefore requested Rives to name another sum "considerably below" that which he had formerly named. The American minister, knowing the sincere desire of his government to bring the disagreeable question to an end was willing on his "own responsibility" to meet them at a middle point between the two sums (forty and twenty-four millions of francs) which had been proposed by the respective representatives of the two states. While the president of the council considered this sum too large, he admitted that it left the door open to a final adjustment of the affair. Rives immediately sought the minister of foreign affairs and repeated the offer he had made to Perrier. The count promised to bring the affair before the council "in the shape which was now given to it."

The patience of Rives was sorely tried because of the postponement of a decision by the council from day to day. At first, other business left no time for a consideration of the question. Then the absence of the king and two of the ministers from the seat of government necessitated a delay. On the return of the king, the president of the council suggested to Rives that it would be wise to postpone a final determination until the meeting of the chambers, for he "apprehended a very serious opposition to it on their part, which might even more seriously embroil the relations of the two countries by refusing to carry into execution any arrangement which should be

made." Such a delay would give the ministers an opportunity to consult members of both houses. Rives replied that he could never assent to such a proposal, and that he could not help but regard such a procedure "as wanting in respect to the United States." Public opinion in America demanded that a settlement be reached as a requisite to the continuance of friendly relations between the two states. These observations brought a promise from the French officials that they would bring the matter before the council for a final decision.⁹²

A few days later Rives was given the "final determination" of the French government. The council had been persuaded by the foreign minister and the president of the council to add one more million of francs to the offer already made. This was to be considered as "unequivocally their *ultimatum*, and he was directed to announce it to me in the most solemn form as such"; that many enlightened men considered the offer as too large; that leading members of the chambers had "emphatically warned him of the serious difficulties to which this affair would expose Ministers, before the Chambers"; that it was only the desire to maintain friendly relations with the United States that had induced them to go as far as they had, but that no consideration would induce them to go beyond the limit which had now been set. In addition to this sum, which was to be paid in six years, the foreign minister was authorized to pay four per cent interest.⁹³

It was now that Rives must determine whether or not the offer of twenty-five million francs should be accepted. The American minister's official instructions had never

⁹² Rives to Van Buren, May 29, 1831, *ibid.*

⁹³ Rives to Van Buren, June 14, 1831, *ibid.*

indicated a precise sum which his government would be willing to accept as a satisfactory settlement of the controversy.⁹⁴ It is very probable that he had seen private letters to Van Buren in which five million dollars had been suggested as an adequate sum.⁹⁵ He had certainly received confidential letters from Hamilton, in which a settlement for a sum of five or six million dollars was advocated.⁹⁶ In the official correspondence on the subject, Rives found a dispatch from Gallatin to Adams in which the opinion was expressed "that all the claims of every description, justly due, do not exceed five millions of dollars, two millions of which, he adds, 'there can be no expectation ever will be obtained.'"⁹⁷ On the basis of these opinions, Rives decided to accept the offer of the French government.⁹⁸

The attention of the foreign minister was temporarily distracted from the negotiation by complications arising in Europe,⁹⁹ but on June 15 he submitted to Rives a list of the claims of French citizens against the United States. The total amount found due was 4,689,241.41 francs. Of this sum 3,700,874 francs were claimed for the heirs of Beaumarchais. The remaining amount was divided among thirteen other claimants in varying amounts.¹⁰⁰ After considerable quibbling over the amount, it was finally agreed to compromise these claims for 1,500,000 francs.¹⁰¹

⁹⁴ Van Buren to Rives, December 22, 1830, in Instructions to United States Ministers to France, XIV.

⁹⁵ Hamilton to Van Buren, June 19, 1829, in Van Buren Papers.

⁹⁶ Rives to Hamilton, March 24, 1831, in Hamilton, *Reminiscences*, 200-201; Rives to Van Buren, October 22, 1831, in Van Buren Papers.

⁹⁷ Gallatin to Adams, January 14, 1822, in Notes from Ministers to France, XX.

⁹⁸ Rives to Van Buren, June 14, 1831, *ibid.*, XXV.

⁹⁹ *Ibid.*

¹⁰⁰ Horace F. Sebastiani to Rives, June 15, 1831, *ibid.*

¹⁰¹ Rives to Livingston, June 29, 1831, *ibid.*

The foreign minister suggested that the question of the interpretation of the eighth article of the Louisiana treaty be settled on the basis which had been agreed upon between Polignac and Rives. After a debate over the details, it was agreed

that the United States should stipulate to reduce, for a term of ten years, the duties on French wines to the following rates, by the gallon: on wines in bottles from 30 to 22 cents, on white wines in casks, from 15 to 10 cents and on red wines, in casks, from 10 to 6 cents; in consideration of which France should entirely abandon her pretension under the eighth article of the treaty of cession of Louisiana, and, moreover, agree to abolish the distinction now made in the French tariff between the long staple and the short staple cottons of the United States, the effect of which will be a reduction of the duty on the former from 40 to 20 francs the 100 kilograms.¹⁰²

An agreement having been reached regarding the points in controversy between the two states, it remained only to draw up and sign a treaty incorporating these understandings. The instrument was prepared in a few days and received the signatures of the plenipotentiaries on July 4, 1831.¹⁰³

¹⁰² *Ibid.*

¹⁰³ For text of the treaty see, Miller (ed.), *Treaties and Other International Acts*, III, 77-90.

CHAPTER V

EXECUTION OF THE TREATY DELAYED

THE signing of the treaty of July 4, 1831, between France and the United States, received very little notice in the French press. The government paper, the *Paris Moniteur*, announced its consummation and printed the text in full, with what appeared to be an official interpretation of the various clauses. The same paper thought that "the stipulations for a reduction of duties on French wines, obviously exceeds the competency of the treaty making power, and will require the action of both Houses of Congress either before it can be ratified or before it can take effect." ¹

The *Journal du Havre*, which represented the commercial interests of France, and which had usually shown much sympathy for the United States, carried an announcement and explanation of the treaty. It thought that "in virtue of this agreement, to which the American Ambassador, furnished with full powers, has subscribed, all the difficulties [are] removed, and *the collision* which President Jackson mentioned in his message, has now no grounds. The commercial ties between France and the U.S. are about to be drawn still closer." ² That part of the

¹ Paris *Le Moniteur*, July (?), 1831, quoted in *Washington Globe*, September 12, 1831; and in *Niles' Weekly Register*, XLI, 38 (September 17, 1831).

² *Journal du Havre*, quoted in Paris *Galvani's Messenger*, July 8, 1831.

French press which opposed the Orleans dynasty found fault with the treaty. *La Tribune* of Paris, a leader among the critics, recalled that the claims of the Americans had been presented to every ministry since the restoration, and in each case they had been rejected as inadmissible. The paper said that this was one of the "most scandalous dissipations" of the public funds.³

In his message to the chambers, at the royal sitting on July 24, 1831, the king announced the signing of the treaty of July 4. His majesty observed that "we ought to seek to preserve the bonds of friendship, so natural and so ancient, which unite France to the United States of America. A treaty had terminated a controversy for a long time pending between the two countries which have such claims for mutual sympathy."⁴

Rives was very enthusiastic over his work, and he did not fail to present it in its most favorable light in dispatches to his government. In a note of July 8, accompanying the signed treaty, he took advantage of the opportunity to present some observations on the treaty. After making several statements designed to show the adequacy of the compromise sum to "satisfy all just claims of our citizens of *every description*," Rives added two paragraphs which merit quotation.

The result which has been gained in the interest of the claimants has not been achieved without the greatest difficulty. The correspondence of Mr. Crawford, of Mr. Gallatin, and of Mr. Brown, with the Department of State (the un-

³ Paris *La Tribune*, July (16?), 1831. Clipping enclosed in Rives to Livingston, October 29, 1831, in Notes from Ministers to France, XXV.

⁴ Paris *Galignani's Messenger*, July 25, 1831. This was widely copied in American newspapers.

favorable parts of which have, for obvious reasons, not heretofore been given to the public,) shows that they regarded this whole subject as almost entirely hopeless. The difficulties, instead of being diminished, have been increased by the recent revolution here; the causes of which have been hinted at in several of my previous despatches, and particularly in that of the 8th of August, 1830. The more popular genius of the new Government in creating a greater tenderness for the public purse, and stronger sympathies with the interest of the taxpayers, has itself been a serious obstacle; to which have been added the pressure of extreme financial embarrassments, and the absorbing pre-occupation of European politics.

An arrangement which, amid so many difficulties, has secured for claims of our citizens (prosecuted in vain for the last twenty years, and a large portion, if not the whole, of which has been considered as *desperate*) a sum sufficient, in all probability, to pay every cent justly due, and nearly treble the amount pronounced to be due by the commission charged with their examination here, which has, at the same time, extinguished claims of French subjects against the United States to the amount of near five million of francs by a stipulation to pay a million and a half; and has finally gotten rid of a most embarrassing claim (founded on the language of a treaty) of perpetual privileges in the ports of one of the States of the Union, by a temporary measure intrinsically advantageous to ourselves, and in the definitive settlement of these unpleasant questions has laid a lasting foundation of harmony and friendship between two countries having the most important common interests, political and commercial; an arrangement marked by these features cannot, I trust, fail to be satisfactory, and to justify the responsibility which, under the discretionary powers the President has been pleased to confide to me, I have not hesitated to assume both in the progress and termination of this complex negotiation.⁵

⁵ Rives to Livingston, July 8, 1831. A copy of this dispatch was sent with the treaty to the senate. Richardson (ed.), *Messages and Papers of the Presidents*, II, 558.

The American press had been following the course of the negotiations as closely as it could from the scraps of information that came to it. The public knew that offers had been made by the French government which had been deemed inadequate by the officials of the United States. It had been rumored that a final effort would be made by the United States to secure an adjustment of the claims and it was "sincerely hoped, for the sakes of both countries, that an arrangement may be made, which may prove honorable to France and satisfactory to the United States. But there are unexpected difficulties in the case which will require no little perseverance, coolness and judgment, on the part of our negotiators, and no little conciliatory spirit on both sides, ultimately to remove."⁶

In a letter from Paris, dated June 29 and bearing earmarks of having been inspired by the American embassy, the editors of the *New York Journal of Commerce* were informed that a treaty had been concluded and would be signed at an early date. The writer said:

this treaty will be one of the most important events to our country that has happened for many years. It is not merely the sum to be received by our citizens, but the consolidating of the friendship of the two countries. . . . This treaty, I confess is as unexpected to me, as it is fortunate for our country; and I am convinced it would never have been effected, but for the unparalleled exertions, untiring perseverance, the skill and address of Mr. Rives. I trust and hope, that if his labors are not adequately rewarded, they will at least be duly appreciated.⁷

⁶ *Niles' Weekly Register*, XL, 362, 396 (July 23, 30, 1831).

⁷ *New York Journal of Commerce*, quoted in *Washington National Intelligencer*, August 25, 1831.

On August 22 a letter from Rives reached the state department, announcing the conclusion of a treaty,⁸ but it was not until September 3 that the signed treaty was put in the hands of the officials in Washington.⁹ A large portion of the press was unstinted in its praise of Rives and the administration for the successful outcome of the negotiations. The Richmond *Enquirer* thought it "as good a treaty, by all counts, as could possibly have been expected—a treaty which is eulogized by gentlemen on the spot, who are no friends to the administration—a treaty we hope will prove satisfactory to the great body of our countrymen."¹⁰ The Philadelphia *Sentinel* found the treaty "to be more satisfactory than was anticipated."¹¹ A New England paper said that it adjusted "all open questions with France and provides for the payment of a sum that according to the opinion of several will nearly, if not altogether satisfy all well founded claims."¹²

One Massachusetts paper raised its voice in opposition to the treaty, holding that the sum provided for was not nearly enough to take care of the just claims.¹³ The Charleston *Patriot* did not find any serious objection to the treaty, but it thought that "Jackson's administration

⁸ Livingston to Jackson, August 22, 1831, in Jackson Papers, Division of Manuscripts, Library of Congress.

⁹ Jackson to Van Buren, September 5, 1831, in Van Buren Papers. See also, Bassett (ed.), *Correspondence of Andrew Jackson*, IV, 346.

¹⁰ Richmond *Enquirer*, quoted in *Washington Globe*, September 9, 1831.

¹¹ Philadelphia *Sentinel*, quoted in *Washington Globe*, September 9, 1831.

¹² Boston *Patriot and Daily Mercantile Advertiser*, September 2, 1831.

¹³ Salem (Mass.) *Gazette*, quoted in *Niles' Weekly Register*, XLI, 24-25 (September 10, 1831).

does not deserve as much credit as is given regarding the French treaty or for any treaty because the way had been opened up in previous administrations.”¹⁴ The editors of the *National Intelligencer* contented themselves with the assertion that it was the revolution of 1830 that made possible the settlement.¹⁵

The British minister at Washington informed his government that “the conclusion of the treaty has given great satisfaction in this country—it will add much to the popularity of the President, and strengthen in a great degree his chance of reelection. It will likewise relieve somewhat the burth[e]rns under which cotton planters are at present laboring, in affording a more ready market for their cotton.”¹⁶ Louis Barbe C. Serurier, the French minister at Washington, informed his government that the treaty had been most favorably received in the United States.¹⁷

The president, in a private letter to Van Buren, expressed himself as being well pleased with the results of the negotiation. He thought that the opposition might seize on the provision for the reduction of duties on wines for a period of ten years, “for a violation of the constitution, by an encroachment upon the legislative, under the treaty making power.” He found, however, that so many of the

¹⁴ Charleston *Patriot*, quoted in *Washington Globe*, December 9, 1831.

¹⁵ *Washington National Intelligencer*, September 3, December 21, 1831.

¹⁶ Charles Bankhead to Palmerston (Henry John Temple), No. 26, September 14, 1831, F.O. 5, America 266.

¹⁷ Louis Barbe C. Serurier to H. Sebastiani, September 4, November 16, 1831, Nos. 17, 24, *Correspondance Politique, États-Unis* 85. The French diplomatic correspondence is to be found in the Archives des Affaires Étrangères, Paris. Cited hereafter as A.E. Some of the papers have been printed in *British and Foreign State Papers, 1812-1929*, 131 vols. (London, 1841-1931), XXII-XXIV.

opposition presses had committed themselves to the treaty that it might pass without much opposition. Jackson desired Van Buren's opinion on it before congress met. Van Buren, in London, had followed the course of the negotiation through a private correspondence with Rives. In reply to the president's request for advice, the former secretary of state wrote a twenty-page letter in which he carefully analyzed the treaty and suggested what he considered the best way to present it to congress. Van Buren thought the treaty satisfactory in every respect and he believed that the opposition would offer no objections to it.¹⁸

In his annual message Jackson informed congress of the conclusion of the treaty and promised that it would be laid before the senate immediately. To escape charges of legislative usurpation, Jackson said that since it contained stipulations that required legislative acts, it must "have the concurrence of both Houses before it can be carried into effect." A very brief exposition of the reasons for accepting a gross sum in settlement of the claims instead of adopting some other mode, and a justification of the concessions regarding the promised reduction of duties on wines followed. Jackson thought that if the treaty received the proper sanction, a source of irritation would be removed which had in some measure alienated the two nations, permitting the growth of the friendship which early association and common interests dictated. The successful termination of the negotiations would also inspire in the citizens of the United States a confidence "that their Gov-

¹⁸ Jackson to Van Buren, September 5, 1831; Van Buren to Jackson, October 11, 1831, in Bassett (ed.), *Correspondence of Andrew Jackson*, IV, 346.

ernment will exert all the powers with which they have invested it in support of their just claims upon foreign nations." ¹⁹

The treaty was submitted to the senate on December 6, 1831,²⁰ and was referred immediately to the committee on foreign affairs, of which Henry Clay was chairman. It received the unanimous approval of the senate ²¹ and ratifications were exchanged on February 2, 1832.²² The promised reduction of duties on French wines was provided for by a bill which received the signature of the president on July 13, and authority was granted the executive to transfer to France the documents necessary to fulfill the sixth article of the treaty.²³ The secretary of the treasury was given authority to provide for the collection of the payment from France in the manner that he found the most convenient.²⁴

The conduct of foreign relations was one of the issues of the presidential campaign of 1832. The Jackson party adopted as its guiding principle that sentence in the presidential message of 1829 which declared the policy of the administration to be "to ask nothing that is not clearly right, and to submit to nothing that is wrong." ²⁵ The *Washington Globe* asserted that Jackson's administration had brought a "series of diplomatic triumphs, unequalled

¹⁹ Richardson (ed.), *Messages and Papers of the Presidents*, II, 548.

²⁰ *Ibid.*, 558.

²¹ *Senate Journal*, 22 Cong., 1 Sess. (Serial 211).

²² Miller (ed.), *Treaties and Other International Acts*, III, 646.

²³ *United States Statutes at Large*, IV, 574.

²⁴ Livingston to Nathaniel P. Niles, February 8, 1833, in *Instructions to United States Ministers to France*, XIV.

²⁵ Address of Central Hickory Club to the People, *Washington Globe*, November 1, 1832.

within any similar period of government.”²⁶ The successful negotiations with France received their fair share of attention at the hands of the Jackson party.²⁷ When Jackson’s administration was accused of extravagance in expenditures in the conduct of foreign relations, the semi-official organ pointed with pride to the fact that his administration had secured a total of \$12,500,000 in indemnity for the country, whereas Adams’ administration had secured nothing.²⁸

The opposition party admitted that a number of beneficial treaties had been entered into by the government, but contended that in several instances the arrangements which had been begun and matured by the preceding administration were concluded and made public by Jackson’s administration. A president of “an elevated and generous disposition would have taken delight in doing complete justice to the merits of a political competitor.” The Clay party asserted that in the treaty with France “the principle adopted by the last administration in the arrangements with Denmark were proposed as the basis of a compromise and in consequence of a favorable change in the internal policy of the former power, was assented to.”²⁹

A few months after the termination of the negotiations with France, Rives asked the state department for permission to return home. It was the desire of the administra-

²⁶ *Ibid.*, October 13, 1832.

²⁷ *Ibid.*, June 1, 1832.

²⁸ *Ibid.*, October 13, 1832.

²⁹ Address of the National Republican Convention to the People of the United States, Washington *National Intelligencer*, December 21, 1831.

tion to keep the post in Paris filled, and so Rives was asked to continue as minister until his successor could be selected. An application to congress for an outfit for a new minister, to be sent out before that body reconvened, was refused because of the influence of Clay.³⁰ Because of this fact and the desire of the president to keep Edward Livingston, who wished to go to France, as his secretary of state until after the election, no appointment was made at this time.³¹ Rives wished to get home before the unfavorable season for ocean travel was far advanced. He secured permission from his chief to leave the mission in charge of the secretary, Nathaniel P. Niles, and sailed for the United States, arriving on November 16, 1832.³²

Under the sixth article of the treaty of July 4, 1831, each government engaged to communicate to the other, "the documents, titles, or other informations proper to facilitate the examination and liquidation of the reclamations comprised in the stipulations of the present convention."³³ Since the United States government had set up a commission to examine and adjust the claims, it was necessary to have this documentary evidence. Immediately upon the exchange of ratifications of the treaty, the secretary of state directed the American minister to request the promised documents from the French government.³⁴ The

³⁰ *Washington Globe*, June 1, 1832.

³¹ Jackson to Van Buren, September 16, 1832, in Van Buren Papers.

³² Bayard Tuckerman (ed.), *The Diary of Philip Hone, 1828-1851*, 2 vols. (New York, 1889), I, 67.

³³ Miller (ed.), *Treaties and Other International Acts*, III, 644-45.

³⁴ Livingston to Rives, February 24, 1832, in Instructions to United States Ministers to France, XIV. The United States congress had set up a board of three commissioners "to receive and examine" all claims presented to them. Such papers as related to private claims which were in the hands of public agencies in the United States were surrendered to the commissioners. It was found, however, that a more

communication of Rives having met no response, the chargé d'affaires, acting under instructions from the secretary of state,³⁵ addressed a second request to the French minister.³⁶ This brought from the Duke Achille Léonce V. C. de Broglie, who had become minister of foreign affairs, the statement that the "researches are proceeding with activity," but that the king's government was not yet in a position to meet the demands.³⁷ It was not until December 29 that even a part of the information requested was ready to be transmitted to the American embassy.³⁸ In acknowledging receipt of the information prepared for his government, the American chargé observed that the material submitted was not complete enough to permit adjudication of the claims by his government. Niles, therefore, asked for the delivery of original ship's papers that were in the custody of the French government.³⁹ To this request Broglie replied that the action taken would "be subordinate to that which may be taken with regard to the demands" of Rives.⁴⁰

The treaty had provided that the first payment should be made one year from the date of the exchange of ratifications. This exchange took place on February 2, 1832.

equitable distribution of the funds might be made if documents in the hands of the French governmental agencies were available. It was for this reason that the request for the documents was made. The mass of papers used by this commission in making its awards are available at The National Archives, Washington. Moore (ed.), *History and Digest of International Arbitrations*, V, 4461-85.

³⁵ Brent to Rives, October 4, 1832, in Instructions to United States Ministers to France, XIV.

³⁶ Nathaniel P. Niles to Duke Achille Léonce V. C. de Broglie, October 20, 1832, in Notes from Ministers to France, XXV.

³⁷ Broglie to Niles, November 15, 1832, *ibid.*

³⁸ Broglie to Niles, December 29, 1832, *ibid.*

³⁹ Niles to Broglie, January 21, 1833, *ibid.*

⁴⁰ Broglie to Niles, January 31, 1833, *ibid.*

In February, 1833, the United States government having received no information regarding the mode of payment which France would adopt, the secretary of the treasury was instructed to draw a draft on the French minister of finance for the amount due. This draft, dated February 7, 1833, was sold to the United States Bank and transferred to their agent in France for collection.

The French minister at Washington was notified in a note from the secretary of the treasury of the proceedings of the United States government. Serurier refused to take cognizance of the information, for it was not communicated through the secretary of state, the only member of the administration with whom he could officially communicate.⁴¹ Instructions were also dispatched to the chargé at Paris to inform the French government that the draft had been drawn.⁴² When the draft was presented to the minister of finance for payment he refused to honor it because of lack of funds. In a conversation with Broglie following the presentation of the draft for payment, Niles was informed that the treaty had not been submitted to the chambers for ratification owing to the fact that the Greek treaty was pending. The minister offered to submit the American treaty to the chambers if Niles requested such a course. The American chargé refused to advise either the withholding or submission of the treaty.⁴³

The Duke de Broglie, in his official reply to the American chargé's note announcing that the draft had been

⁴¹ Serurier to Louis M. McLane, June 9, 1833, in France: Notes to the Department of State, XI.

⁴² Livingston to Niles, February 8, 1833, in Instructions to United States Ministers to France, XIV.

⁴³ Niles to Livingston, March 23, 1833, in Notes from Ministers to France, XXVI.

drawn, expressed his regret and astonishment that the United States had not thought proper to have an understanding with France before taking such a step. The duke pointed out that under the constitution of France, as under that of the United States, it was necessary to secure legislative sanction before the treaty could take effect. Circumstances over which the king's government had had no control had prevented it from asking the necessary appropriation of the chambers. Broglie thought that, although there were no express stipulations in the treaty on this point, the fundamental principles of public law forbade the United States to take the step it had. The mode adopted for receiving payment was considered to be very irregular by the duke. He thought that the treaty implied the appointment of special agents charged with receiving the amount of the installment. Such a procedure was supported by precedent but the American government had adopted an unusual program. The minister of foreign affairs assured Niles that it was not the intention of his government to throw off any engagement which it had entered into by the treaty in question. He admitted that there might be some delay but asserted that it would be no greater than necessity required.⁴⁴

Rumors that payment of the draft had been refused by the French government were published in the press of the United States early in May.⁴⁵ The *Globe* was not disposed to accept any explanations from France. As it considered the question,

the government of Louis Philippe may not have had the money—the Chambers may not have provided the appropria-

⁴⁴ Broglie to Niles, March 26, 1833, *ibid.*

⁴⁵ Washington *National Intelligencer*, May 2, 1833.

tion but do we suppose that if the British government had stood in the shoes of the United States in that transaction, the Cabinet of the Tuilleries would have so cavalierly turned upon its high-heeled shoes when the bill was presented, and said, "Monsieur, call again tomorrow"? It was quite easy for the French Cabinet to raise the money by loan in half an hour on the Bourse, or from any of its great capitalists. It did not do so. Shall the United States government be treated with more indignity than the British? . . . Time will tell what has been the purpose of the French Cabinet in refusing to pay these bills.⁴⁶

The anti-Jackson papers felt that the "official or government" papers had manifested too furious an enmity against the rulers of France.⁴⁷

When Niles' dispatch of March 23 was received at the state department a note was sent to Serurier, asking if he had received any information on the subject.⁴⁸ The reply of the French envoy was that he was "entirely ignorant of the situation" but that he would refer to his government any "observations" addressed to him and request an answer as speedily as possible. Serurier expressed the opinion that the American chargé d'affaires should have requested explanations directly from the Duke de Broglie, who would have given every explanation desired.⁴⁹ A few days later, the French envoy, acting under instructions from his government, offered explanations which merely extended those given by Broglie to Niles and reported to

⁴⁶ *Washington Globe*, May 9, 1833.

⁴⁷ *Washington National Intelligencer*, June 11, 1833.

⁴⁸ Livingston to Serurier, April 26, 1833, in *Notes to Foreign Legations from Department of State*, V.

⁴⁹ Serurier to Livingston, April 27, 1833, in *France: Notes to the Department of State*, XI.

the state department on March 23.⁵⁰ The president found the explanations unsatisfactory. The secretary of state expressed the opinion in a note to Serurier that the French government was attempting to escape the real issue when it offered objections to the mode of requesting payment instead of explaining the reason for having failed to make seasonable preparation to comply with the terms of the treaty.⁵¹

In the opinion of Louis McLane, who had been transferred from the treasury department to the secretaryship of state, the admission made by Serurier that the chambers had not been asked to grant the sum required, clearly placed the responsibility upon the executive department of the government of France. McLane thought that his government had the right to expect that the "unavoidable delays" spoken of by the French minister should be explained, if the United States government was to accept them as a satisfactory explanation for the delay. As for the criticism offered concerning the mode of requesting payment, McLane contended that the methods adopted by the United States government were irrelevant to the point at issue, and observed at the same time that the drawing of a draft was the most convenient and satisfactory manner to transfer the money. He also contended that when the draft was drawn Serurier had been informed and that at that time he had offered no objections.⁵²

Jackson's ire at the failure of France to fulfill the treaty

⁵⁰ Serurier to McLane, May 19, 1833, *ibid.*

⁵¹ Broglie to Serurier, March 27, 1833, No. 35; Serurier to Broglie, May 20, 1833, No. 41, A.E., États-Unis 87.

⁵² McLane to Serurier, June 3, 1833, in Notes to Foreign Legations from Department of State, V.

was increased when the Bank of the United States presented a bill for 15 per cent damages on the protested draft. The president refused to pay the bill.⁵³ Nicholas Biddle, president of the bank, did not press the claim but at the end of the year he deducted the damages claimed from the dividends paid on the government stock.

The English minister in Washington had been following the course of events carefully. He reported that,

as it is known that the terms granted, were at the time of the conclusion of the Treaty, thought by the French to be extravagant, and as the Americans have already fulfilled the stipulations of reducing the duty on French wines imported into the United States, great uneasiness is manifested lest the President should be reduced to the necessity of resenting a breach of compact.

This uneasiness is increased by an impression which has been made by the correspondence of Americans in Paris, indicating a certain covert hostility to the republican institutions of America (supposed to be patronized by General LaFayette) on the part of the present administration in France.⁵⁴

Jackson did not wish the ministerial post at Paris to remain vacant for any length of time.⁵⁵ He wrote Van Buren that on the receipt of information that Rives had left Paris he expected to send out Edward Livingston,⁵⁶ who had been his first choice for the French mission and was at the moment serving as secretary of state. The presi-

⁵³ *Washington Globe*, May 23, 1833.

⁵⁴ Charles Vaughan to Palmerston, August 12, 1832, No. 29, F.O. 5, America 282.

⁵⁵ Jackson to Hamilton, March 28, 1832, in Hamilton, *Reminiscences*, 244.

⁵⁶ Jackson to Van Buren, September 16, 1832, in Van Buren Papers.

dential campaign, the failure to get an outfit from congress,⁵⁷ and the inability to find a suitable successor to McLane in the treasury department, who was to succeed Livingston at the state department, kept Livingston at home until after France had refused to honor this draft.⁵⁸ The failure of France to meet its obligations made it desirable that the affairs of the United States in that country be in the hands of a more responsible agent. Therefore, Jackson made arrangements for the early departure of Livingston.

The appointment of Livingston to the Paris post was praised by the press, even the *National Intelligencer* giving its endorsement.⁵⁹ Lafayette had written from Paris urging Livingston to accept the post.⁶⁰ Livingston's family appears to have been desirous for him to accept the foreign mission. The appointment of his son-in-law, Thomas P. Barton, as secretary of the legation made the group a happy family party. It was not until August 14, 1833, that the Livingston party embarked at New York.⁶¹

Livingston was instructed by the secretary of state to inquire immediately into the causes

which have prevented the faithful execution of the convention on the part of the French Government, and make the ministers sensible not only of the disappointment felt by the President, but of the effect which the non-payment of the in-

⁵⁷ *Register of Debates*, VIII, 781.

⁵⁸ Jackson to Van Buren, July 30, 1833, in Bassett (ed.), *Correspondence of Andrew Jackson*, V, 144.

⁵⁹ *Washington National Intelligencer*, May 31, 1833.

⁶⁰ Roch Yoes Gilbert Motier Lafayette to Livingston, December 8, 1832, in Charles H. Hunt, *Life of Edward Livingston* (New York, 1864), 384.

⁶¹ *Ibid.*, 389.

stalments is calculated to produce in the minds of the Government, and with the people of the United States towards the Government of France.

The new minister was informed that the president would not allow to be questioned, under any circumstances, the right of the United States to draw by bill of exchange on the French government for the amount due. The attempt of France to excuse its own delinquency by complaining of the mode adopted for receiving payment would be considered by the United States "an aggravation of the injury previously inflicted."⁶²

The French ministry had presented the American treaty to the chamber of deputies on April 6, 1833. The minister of finance, Jean Georges Humann, in submitting the treaty, declared that the United States had pressed for twenty years demands for damages which had been inflicted upon its commerce by French forces under the Berlin, Milan, and Rambouillet decrees. The imperial government, the government of the restoration, and the government formed after the July, 1830, revolution had each rejected these claims but had agreed that there were certain categories which merited consideration. These special classes included (1) those vessels and cargoes seized before their owners had an opportunity to know of the decrees, (2) those vessels and cargoes condemned after November 1, 1810, the date of the repeal of the decrees, and (3) those vessels and cargoes burned at sea. The speaker said that the factor which had prevented an earlier adjustment of the differences was the impossibility of agreeing upon the size of the indemnity. He as-

⁶² McLane to Livingston, June 3, 1833, in *Instructions to United States Ministers to France*, XIV.

serted that it was impossible to fix an exact sum but that the ministry, prompted by a desire to promote and strengthen the amicable relations existing between the two states, had finally agreed to pay 25,000,000 francs in liquidation of the claims.

The advantages which the treaty insured to France were emphasized by Humann. He pointed out that as compensation for the special privileges which France claimed for her vessels in the ports of the Louisiana purchase under the treaty of 1803, the United States had agreed to reductions of the tariff on French wines. French citizens, who had pecuniary claims against the United States, were to receive the sum of 1,500,000 francs in settlement of those obligations. The revision by France of the tariff schedule on cotton was declared to be of mutual benefit to the two countries.⁶³

There was no further discussion of the treaty by the chamber until June 11, at which time Humann again brought the matter to the attention of the deputies. On this occasion the minister remarked that the good name of France was pledged. He thought that the state must be faithful to its obligations. The only response to this appeal was a statement from the presiding officer that all documents relating to the treaty must be printed and carefully examined before any action could be taken.⁶⁴ A fervent appeal by General Lafayette two days later, based upon the manifest advantages of the treaty to France

⁶³ M. J. Mavidal and M. E. Laurent, *et al.* (directors), *Archives Parlementaires de 1787 à 1860. Recueil Complet des Débats Législatifs & Politiques des Chambres Françaises*. Deuxième Série. 127 vols. (Paris, 1862-1913), LXXXII, 311-14. Cited hereafter as *Archives Parlementaires*.

⁶⁴ *Ibid.*, LXXXV, 7.

as evidenced by the increase of trade of the city of Lyon, was also fruitless. Lafayette warned that the continued failure of the chamber to take any action might result in the American congress taking some unfavorable action.⁶⁵

The report of the committee, which had been designated to study the treaty, was made on June 18. The chairman, Benjamin Delessert, declared that the short time available, for study of the treaty and the documents supporting it, would force a postponement of the matter until the next session of the chambers. He admitted that a number of organizations had petitioned for action and intimated that the good understanding existing with the United States might be disturbed by the delay. Delessert asserted that the ministry was to blame for the postponement because of their failure to introduce the treaty at an earlier date. This assertion precipitated a debate in which the ministry and friends of the treaty, particularly General Lafayette, sought unsuccessfully to secure the immediate consideration of the treaty.⁶⁶

This was the state of affairs when Livingston arrived in Paris. He was received most cordially by the king, who expressed a warm appreciation of the hospitality that had been shown him while he was an exile in the United States, and especially of the favors which Robert Livingston had showered upon him. In regard to the convention he asked Livingston to assure his government that "unavoidable circumstances" had alone prevented its execution, but that "it will be faithfully performed." The king also asserted that the necessary laws would be passed at the "next meet-

⁶⁵ *Ibid.*, 78.

⁶⁶ *Ibid.*, 199-201.

ing of the Chambers.”⁶⁷ Similar sentiments of friendship and promises of an early fulfillment of the treaty stipulations were given by the Duke de Broglie.⁶⁸

In a note to the minister of foreign affairs, dated October 5, 1833, Livingston, following his instructions, asked for “official explanations in relation to the convention concluded on July 4, 1831,” and demanded “the fullest execution thereof.” This note offered the same arguments and observations that McLane had used in his communication of June 3, 1833, to Serurier.⁶⁹ After presenting these arguments in their most convincing fashion, Livingston made it known that

the United States considers the faith of the government of France as irrevocably pledged for the performance of the stipulations contained in the convention of 4th July, 1831; that they acknowledge no right in any branch of the government to destroy this pledge, and that they expect not only a speedy performance of those engagements, but also interest on the payments withheld, and a complete indemnity for all such damages as may accrue in consequence of the refusal to pay the instalment of the debt which has already become due.⁷⁰

This language left no doubt as to what the American government expected.

The line of reasoning adopted by Livingston in this dispatch was not concurred in by Broglie, but the foreign minister ended his reply by assuring Livingston “that at the next session, and on the day after the Chamber of

⁶⁷ Livingston to McLane, October 4, 1833, in Notes from Ministers to France, XXVII.

⁶⁸ Livingston to Broglie, October 5, 1833, *ibid.*

⁶⁹ See *ante*, 103.

⁷⁰ Livingston to Broglie, October 5, 1833, in Notes from Ministers to France, XXVII.

Deputies shall have been constituted, . . . the King's Government will lay before it the *projet de loi* relative to the convention of July 4th, 1831." ⁷¹ Livingston considered these explanations "as being of a nature, calculated to satisfy the Federal Government entirely." ⁷²

The news of the postponement by the chambers to the next session of its decision on the American treaties was received in the United States in August, 1833. Serurier found that this action provoked considerable excitement. McLane informed the French minister that the situation was very grave. In his dispatches Serurier did not minimize the seriousness of the crisis but he did inform his government that he thought no drastic action would be taken until after the chamber had had an opportunity to act on the treaty. ⁷³ It was probably these dispatches which prompted Broglie to make the definite promises of action given Livingston on October 23.

A few weeks later Jackson sent his annual message to congress. In discussing French affairs, the president found that "notwithstanding that I continue to receive the most amicable assurances from the Government of France, and that in all other respects the most friendly relations exist between the United States and that Government, it is to be regretted that the stipulations of the convention concluded on the 4th of July, 1831, remain in some important parts unfulfilled." Jackson informed congress of the failure of France to pay the first installment of the indemnity when it was due, and also expressed regret that the French

⁷¹ Broglie to Livingston, October 23, 1833, *ibid.*

⁷² Broglie to Livingston, November 20, *ibid.*

⁷³ Serurier to Broglie, August 6, 1833, No. 49; August 12, 1833, No. 50; August 18, 1833, No. 51; October 27, 1833, No. 61. A.E., États-Unis 87.

government had not seen fit to transfer the documents essential to carrying out the provisions of the treaty. The executive reported to congress that he had received assurances from the chargé d'affaires at Paris, the French minister plenipotentiary at Washington, and later through the minister of the United States at Paris "that the delay has not proceeded from any indisposition on the part of the King and his ministers to fulfill the treaty, and that measures will be presented at the next meeting of the Chambers, and with a reasonable hope of success, to obtain the necessary appropriation."⁷⁴

Directly after taking up his residence at the French court, Livingston resumed the efforts of Niles to secure from the French government the documents which the United States claimed under the sixth article of the treaty. Partial information was sent to the American legation, but not as complete and authentic as was desired. The French government, deeming the interpretation given by the American government to this portion of the treaty unwarranted, refused to go to the expense and trouble of furnishing more detailed information, but offered the same privilege to the American government as to private individuals—that of obtaining copies of the necessary documents on the payment of a very "moderate clerk's fee." Finding the French government adamant on this point, Livingston was forced to yield and requested that copies of the requisite documents be made.⁷⁵

The bill providing for the payment of the indemnity was introduced in the chamber of deputies by the govern-

⁷⁴ Richardson (ed.), *Messages and Papers of the Presidents*, III, 20 ff.

⁷⁵ Broglie to Livingston, November 20, 1833; Livingston to Count Henri G. de Rigny, May 10, 1834, in *Notes from Ministers to France*, XXVII.

ment on their reassembling, as had been promised by the king and Broglie. The proposed law was referred to a committee where it gave promise of resting peacefully. Livingston, seeing the end of the session of the chambers approaching and knowing the very earnest desire of the president to inform congress of the state of affairs with France before its adjournment, addressed a note to Broglie in which he urged the necessity of an early report and consideration of the bill. In this note the opinion was expressed that if congress adjourned before news reached it of action by the French chambers, it might be under such circumstances as "may be injurious to the good understanding so happily subsisting between the two nations."⁷⁶

On March 10, 1834, the committee appointed to examine the treaty made a unanimous report to the chamber of deputies urging the adoption of a bill to provide for the indemnity. The debate on the question began on March 28. This was one of the most bitterly contested questions of the session. The recommendations of the committee and of the ministry were brilliantly presented and defended by Horace François Sebastiani, Antoine Jay, Georges de Lafayette, Alphonse de Lamartine, and Duke de Broglie. The opposition was led by Boissy d'Anglas, Louis Pierre Bignon, Pierre Rène Auguis, and Antoine Pierre Berryer.

The advocates of the treaty based their arguments upon a number of factors. They asserted that under international law the claims were just and had been recognized as such by every government of France, including the imperial government. It was pointed out that the sum France finally agreed to pay was much less than the estimates of

⁷⁶ Livingston to Broglie, March 7, 1834, *ibid.*

the representatives of the American government. Those who supported the treaty also contended that some of its provisions were highly beneficial to France. The rapid increase of commerce which had already occurred under the provisions of the treaty was emphasized in support of this assertion. A final claim elaborated by the advocates of the measure was that it had insured France of the continuance of the friendship of the United States at a time when the state needed the support of the American republic.

The group seeking to secure the rejection of the measure varied its attack. There was a noticeable lack of interest in denying that the United States was not entitled to some indemnity. The critics concentrated their attacks upon the size of the indemnity granted. Before the chamber was also held the specter of France being overcome by similar claims from neighboring countries if this treaty were approved. In addition, there was a definite indication that members of the chamber were displeased with the manner in which the ministry had handled the question. Charges that the ministry had not presented the treaty to the chamber as soon as it should have, that enlightening documents had been suppressed or withheld, and even intimations that members of the ministry had profited from the treaty were made.⁷⁷

The vote was taken at the end of a five-day debate with 176 deputies registered as opposed to the bill and

⁷⁷ *Archives Parlementaires*, LXXXVIII, 111-222. See also Niles to Levi Woodbury, April 2, 1834, in Nathaniel Niles Papers, Division of Manuscripts, Library of Congress; George M. Gibbs to Van Buren, April 2, 1834, in Van Buren Papers. François P. G. Guizot, *Mémoires pour servir à L'Histoire de Mon Temps*, 8 vols. (Paris, 1858-67), III, 233-35, gives an excellent discussion of the causes of the defeat of the bill.

168 favoring the measure. The defeat of the bill came as a surprise to those who voted against its adoption as well as to the king's government. The Duke de Broglie, who had threatened to resign if the bill was not carried, tendered his resignation, which was followed by that of Sebastiani. Broglie felt the cause for defeat was that the chamber did not see what would be the

result of its action; it imagined . . . that the rejection of a treaty was quite a simple matter; that a treaty might be put aside like an amendment to a law of local interest; it fancied, that in warning it of the consequences, I, as it were, overrated them; The lesson has been a severe one, and the anxiety of the majority has been very great during the last few days. . . . Nevertheless, it is quite certain that at present the Chamber is greatly humiliated at its conduct, and that the treaty will now be passed by four-fifths of the votes.⁷⁸

The unusual situation caused great uneasiness to the king and the council. A session of the council, which was held in the evening of the day of rejection, lasted until midnight. It reconvened the next morning at ten o'clock and remained in session until after three o'clock in the afternoon. Madame Adelaide d'Orleans, who was an influential adviser of the king, spoke of the vote as "deplorable" and as "very serious and very unfortunate." She did not know "what other [in addition to the resignations of Broglie and Sebastiani] sad consequences may not arise from this rejection of the American treaty!" She considered the action one of "ignorance and folly" on the part of the chambers.⁷⁹

⁷⁸ Broglie to Prince Charles Maurice de Talleyrand, April 6, 1834, in Duke de Broglie (ed.), *Memoirs of the Prince de Talleyrand*, trans. by Mrs. Angus Hall, 5 vols. (New York, 1891-1892), V, 231-33.

⁷⁹ Adelaide d'Orleans to Talleyrand, April 2, 1834, *ibid.*, 229.

Livingston addressed a full account of the proceedings to McLane. He thought that if the ministry had supported Broglie the bill would have been carried. The envoy suggested that the reason for the failure of the ministry to support Broglie was their desire to get rid of him, for he was disliked by his colleagues. The duke denied, in an interview with Livingston, that the cabinet was not solidly behind him. Livingston felt that no further action would be taken until after the election which would occur in midsummer. In order to assure a majority in the new chambers he thought that the United States must take "such measures as to show they will no longer be trifled with." Such a measure as the prohibition of the importation of goods from France would have the desired effect.

In an interview with the king, Livingston was informed that a vessel would be sent out immediately with instructions for Serurier to make the necessary explanations. The king promised that the new chambers would be summoned and the treaty laid before them.⁸⁰ A few days later Livingston had a conference with Count Henri Gauthier de Rigny, who had been shifted to the department of foreign affairs on the resignation of Duke de Broglie. In this interview Livingston asked when the new chamber would be convened.

Not, they said, until December. At this I expressed the greatest dissatisfaction. I told them that altho' I could not say what measures would be pursued on hearing the rejection of the law, I was very confident that the President would consider the refusal to call the chambers until the latest usual time of meeting and the necessary delay that must result of more

⁸⁰ Livingston to McLane, April 3, 1834, in *Notes from Ministers to France*, XXVII.

than a year before the final decision could be known; as an evidence that nothing was to be expected; that the only chance, and I could not answer even for that, of avoiding measures that might materially change the relation of the two countries, lay in my being able to convey to the President the assurance that he might announce the final decision of the question to congress at the opening of their next session in December. They said, the chambers must, by the charter, be called in three months after the dissolution of this, but at that season (mid-summer) the members would not attend and that the meeting must be prorogued until the month of December as was usual, but that I might say that it would take place as early *as possible*; and this was all the answer I could get on the subject. I begged them to understand that I only spoke of this as an evidence which they might offer, that some exertion would be made to justify the feelings which the United States would justly entertain on this subject, but that I was sorry to find the convenience of the members was put in competition with what I considered a high national interest and honor. They replied that if the chamber was convened before the usual time, none but the opposition would attend and the question would again be lost.⁸¹

A few days later Livingston advised the state department that the only way to secure the execution of the treaty was "to use the means we have of effecting it." He felt that nothing else would convince the people of France that the United States would not accept a smaller sum than that named in the treaty. He also urged the secretary of state to press Scruier for a definite committal as to the time of meeting of the new chambers.⁸²

News of the defeat of the indemnity bill by the chamber of deputies reached the United States early in May. This event created in the president's mind the "most pain-

⁸¹ Livingston to McLane, April 3, 1834, *ibid.*

⁸² Livingston to McLane, April 13, 1834, *ibid.*

ful surprise.”⁸³ Serurier heard that the president was extremely irritated and that a message was planned to be delivered immediately to congress in which the refusal to pay would be treated as a question of offended dignity and honor. Clay visited the home of Serurier and spoke in great agitation of the serious consequences to be apprehended from the act. Later in the day the minister visited Clay but found him no calmer than he had been in the morning. It appeared to Serurier that the most drastic action of the executive would have the united support of the country. The French minister, in an attempt to prevent a precipitate action, appealed to McLane to delay such a measure until he had received instructions from his government, which he was sure would make it possible for him to give all the explanations necessary.⁸⁴

The president finally decided not to take any measures until he had been more fully informed, particularly as regards “the sentiments and intentions of the French Government on the subject.” The secretary of state expressed the hope that the expected communications from Livingston would be of such a nature as to remove the anxiety which his earlier notes had aroused. McLane expressed the opinion that “if the explanations and assurances which may be offered by the new ministry shall not be more satisfactory, the President will think himself called upon to recommend the adoption of such measures as shall be calculated to vindicate the rights and honor of the country.”⁸⁵

⁸³ McLane to Livingston, May 17, 1834, in Instructions to United States Ministers to France, XIV.

⁸⁴ Serurier to Broglie, May 11, 1834, No. 88, A. E., États-Unis 88.

⁸⁵ McLane to Livingston, May 17, 1834, in Instructions to United States Ministers to France, XIV.

Immediately on receipt of the news of the action of the French chamber in New York, James A. Hamilton had written Van Buren urging that the president protect the national honor. Hamilton thought that "desperate disease requires desperate medicine."⁸⁶ That the administration was seriously contemplating some decisive step may be inferred from the fact that Van Buren wrote Rives and asked his opinion on reprisals. Rives expressed the opinion that reprisals were not expedient and would be attended with the danger of war. He suggested that some form of commercial restrictions be resorted to as calculated to attain the desired ends without being attended with so much risk.⁸⁷

Later, Van Buren wrote Rives inquiring if the king had ever expressed a doubt as to whether the treaty would be ratified. The former minister replied that he had never discussed the subject with any member of the government. Rives said that in the course of the negotiation the leaders in France had expressed the opinion that if the sum decided upon were too large the treaty would be exposed to "serious opposition in the chambers." Rives had considered this merely as a diplomatic argument to secure a reduction in the amount claimed.⁸⁸

The "fast sailing" vessel with Serurier's dispatches did not arrive in the United States until June 2, 1834.⁸⁹ Since Livingston's dispatches, going by way of Liverpool, had reached the state department early in May, it appeared that something was wrong with French seamanship. This fact was noticed and the observation made that the cor-

⁸⁶ Hamilton to Van Buren, May 5, 1834, in Van Buren Papers.

⁸⁷ Rives to Van Buren, May 15, 1834, *ibid.*

⁸⁸ Rives to Van Buren, May 16, 1834, *ibid.*

⁸⁹ Serurier to Rigny, June 3, 1834, No. 93, A.E., États-Unis 88.

vette was slow because it was the desire of the French government to prevent Jackson from making any communication to congress before its adjournment.⁹⁰

On the arrival of the corvette, Serurier immediately communicated verbal explanations⁹¹ to the secretary of state, which, upon the request of McLane, he communicated in a formal note of June 5. The French minister affirmed that his government adhered strictly to the treaty which had been signed between the two states. The king's government regretted that the deputies had rejected the bill, but it had determined to appear before the new chambers with treaty and bill in hand. The government thought that the conviction of the chambers had been changed and that a favorable vote could be expected. The king's government promised to make every "loyal and constitutional" effort to secure the passage of the bill. Serurier also stated that it was its intention "to do all that our constitution allows, to hasten, as much as possible, the period of the new presentation of the rejected law." Serurier concluded his note with a plea that the United States do nothing in "this transitory state of things . . . that might become a cause of fresh irritation between the two countries, compromit the treaty, and raise up an obstacle, perhaps, insurmountable, to the views of reconciliation and harmony which animate the King's Council."⁹²

The reply of the secretary of state was delayed for about three weeks, seemingly because of the inability of the president to decide whether to lay the question be-

⁹⁰ Livingston to McLane, June 28, 1834, in Notes from Ministers to France, XXVII.

⁹¹ Serurier to Rigny, June 15, 1834, No. 95, A.E., États-Unis 88.

⁹² Serurier to McLane, June 5, 1834, in France: Notes to the Department of State, XI.

fore congress immediately or to give the French another opportunity to make a satisfactory settlement. McLane was opposed to immediate drastic action and his counsel prevailed. The fact that McLane was not prepared to support Jackson in the drastic policy he had determined upon in dealing with France was considered as one of the reasons for his resignation as secretary of state.⁹³

In his reply McLane expressed the deep regret and painful surprise which the president had felt when "the extraordinary proceeding" of the chamber of deputies was communicated to him. The explanations which Serurier had communicated to the secretary of state did not "explain" the causes which led to the action of the legislative body in France, but Jackson was disposed to wait "with confidence the appeal to the new Chamber." The president, desiring that his sentiments might "be known to his Majesty's Government," instructed McLane "to state his expectation that the King, seeing the great interests now involved in the subject, and the deep solicitude felt by the people respecting it, will enable him, when presenting the subject to Congress, as his duty will require him to do at the opening of their next session, *to announce at that time* the result of that appeal, and of his Majesty's efforts for its success."⁹⁴

The French minister was under no misapprehension as to the "soothing" influences his explanations had carried. The secretary of state had been polite but cold, and even Jackson's bitterest political adversaries had spoken to him of a war to preserve the national honor. Serurier did not

⁹³ *Washington Globe*, June 19, 1834; Serurier to Rigny, June 20, 1834, No. 97, A.E., États-Unis 88.

⁹⁴ McLane to Serurier, June 27, 1834, in Notes to Foreign Legations from Department of State, V.

conceal the seriousness of the situation from his government.⁹⁵

Serurier's verbal explanation had been given to the secretary of state on June 4, and his official note recapitulating those explanations had been sent on June 5. That Jackson was not altogether convinced of the sincerity of those explanations and that he was determined to be prepared to use "desperate remedies for desperate diseases" may be inferred from the fact that he wrote the secretary of the navy on June 6 ordering an "inspection of our ships . . . so that all the means given us by land may be put in requisition that, should an emergency occur we may be prepared for it."⁹⁶

The press of the United States divided in its views on the question according to whether it was Jackson or anti-Jackson. The Boston *Mercantile Journal* thought that the trouble came from the printing of Rives' correspondence, which "vauntingly boasted of having over reached the French Government."⁹⁷ The New Orleans *Argus* found the independence of the chamber of deputies which refused to be dictated to by a king contrasting favorably with "our Congress—a most servile and corrupt body—would obey all the orders of the illiterate Jackson."⁹⁸ The Jackson press was vehement and consistent in the defense of the administration. The *Globe* found the opposition among the merchants who "joined the British;

⁹⁵ Serurier to Rigny, June 15, 1834, No. 95; October 22, 1834, No. 110, A.E., États-Unis 88.

⁹⁶ Jackson to Levi Woodbury, June 6, 1834, in Jackson Papers, Division of Manuscripts, Library of Congress.

⁹⁷ Boston *Mercantile Journal*, quoted in Washington *Globe*, June 4, 1834.

⁹⁸ New Orleans *Argus*, quoted in the Washington *Globe*, June 10, 1834.

they now join the Bank in the present crusade against a pure and free government; and it appears . . . would join the French . . . if it would tend to destroy an administration which upholds the honor of the country and the principles of the Government.”⁹⁹

Livingston anxiously awaited instructions as to the course which the president intended to pursue. He thought that the tone of forbearance adopted by some of the newspapers in the United States was having a bad effect in France, where the idea was gaining ground that the United States would be willing to open a new negotiation for a smaller sum. The American envoy felt that if the French ministry would unite in support of the treaty they could carry the bill easily, but he was more than ever “convinced that if some energetic measures are not taken, we shall run great risk” of losing the claims. Livingston advocated some commercial restriction as being best adapted to secure the wanted results.¹⁰⁰ In a private letter to Jackson, the envoy repeated the same observation.¹⁰¹

It was not until June 27, after the reply to Serurier’s note of June 5 was determined upon, that instructions were sent to Livingston. He was informed that the president had decided to afford an opportunity for further action on the part of the chamber. The president in making this concession desired it to be “distinctly announced” to the French government that he “looked to the assembling of the new chambers as soon after the new elections as the King, according to the Charter, has the power to

⁹⁹ *Washington Globe*, June 4, 1834.

¹⁰⁰ Livingston to McLane, June 22, 1834, in *Notes from Ministers to France*, XXVII.

¹⁰¹ Livingston to Jackson, June 23, 1834, in Bassett (ed.), *Correspondence of Andrew Jackson*, V, 270-71.

convoke them." If the meeting of the chambers was delayed until the ordinary period in December, news of the action of that body on the bill would not be received until after the adjournment of congress on March 3. The president had determined to present the question to congress at the beginning of the session, requesting "definitive and energetic action."¹⁰²

Livingston, in anticipation of the instructions he would receive from his government, had been urging upon the members of the French ministry and the king himself the necessity either of presenting the law at the special summer session to be opened on July 31, or of calling the chambers earlier than customary in order that their decision might be known in Washington before the meeting of congress. None of the officials seemed to think that either course was wise or prudent and said that it would be impossible for them to comply with the request.¹⁰³

Upon the receipt of the instructions of June 27, Livingston addressed a formal note to the French minister of foreign affairs in which he "frankly and distinctly" announced the president's intention to present the matter to congress at the opening of its session in December, "recommending such measures as he may deem that justice and the honor of the country require." The president considered Serurier's promise that his government would "do all the constitution permitted to hasten as much as possible the new presentation of the rejected law," as meaning either that the bill would be presented to the chambers in the summer session, opening on July 31, or

¹⁰² McLane to Livingston, June 27, 1834, in Instructions to United States Ministers to France, XIV.

¹⁰³ Livingston to McLane, July 21, 26, 1834; Livingston to Rigny, July 26, 1834, in Notes from Ministers to France, XXVII.

that the chambers would be called into session early enough in the fall to permit a conveyance of the decision on the subject to the United States before the opening of the regular session of congress.¹⁰⁴

Count de Rigny's reply reaffirmed the fact that it would be impossible to lay the bill before the session of the French legislature then about to open, for the only object of it was to give the chambers an opportunity to organize themselves and comply with the provisions of the charter, after which they would be immediately prorogued. The king's government was not willing to enter into any "*positive*" stipulation that the chambers would be convoked earlier in the autumn than was customary, but "as soon as they can be assembled, you may be assured, that among the subjects first submitted to their deliberations, will be a treaty."¹⁰⁵ An appeal to the king brought no further assurances than those already given by Rigny.¹⁰⁶ Livingston's remonstrances that these assurances would not be found satisfactory at Washington brought from Rigny the assertion that this was the utmost the king's government could do. Livingston felt that it meant that the chambers would not meet until January, and that the ministry was not confident of its ability to put through the bill even at that date.¹⁰⁷

In the last dispatch received from Livingston before the meeting of congress, the American government was informed that no change in regard to the claims had occurred. Unfounded rumors were afloat that the chambers would be called at an early date in the fall. Livingston

¹⁰⁴ Livingston to Rigny, July 29, 1834, *ibid.*

¹⁰⁵ Rigny to Livingston, July 31, 1834, *ibid.*

¹⁰⁶ Livingston to Forsyth, August 4, 1834, *ibid.*

¹⁰⁷ Livingston to Forsyth, August 10, 1834, *ibid.*

himself felt that nothing would be done regarding the claims before the last of January or the middle of February.¹⁰⁸ The chambers met in the constitutional session on July 31. After their organization had been perfected and they had heard the king's speech, they were prorogued until December 29, no attempt having been made to introduce the American question.

When the news of this action reached America a large part of the press denounced the policy of the French government. Even the *National Intelligencer* expressed regret that the French chambers had adjourned without making the appropriations for the treaty.¹⁰⁹ The necessity of bringing the matter to an immediate conclusion, the insincerity of France, and the necessity of forcible measures were the themes of the press comment on this topic.¹¹⁰ A few of the more persistent opponents of the administration found excuses for French procrastination. They said that the boasting of Rives and the bullying tone of the "official press" would not force France into paying. These papers thought such policies would have to be changed and possibly also the national administration, but that ultimately France would pay.¹¹¹

No one was more severe in the denunciation of the French than Jackson himself. He pronounced the course of the king of France "jesuitical . . . toward us." In order to carry out the maxim "to ask nothing but what is

¹⁰⁸ Livingston to Forsyth, October 13, 1834, *ibid.* This dispatch was received at the state department on November 24.

¹⁰⁹ Washington *National Intelligencer*, October 4, 1834.

¹¹⁰ New York *American*, *Journal of Commerce*, and *Times*, quoted in Washington *Globe*, October 6, 1834.

¹¹¹ Boston *Patriot*, quoted in Washington *National Intelligencer*, October 22, 1834; New York *Courier and Enquirer*, quoted in *ibid.*, October 7, 1834.

. . . right, and permit nothing that is wrong" he thought that there "is nothing now left for me but a recommendation of strong measures, to protect our national character, and procure justice to our citizens by compelling France to a prompt fulfilment of her treaty with us." The president was anxious that Van Buren, who was in New York, come to Washington in time to give his advice before the annual message had to be sent to congress.¹¹²

Van Buren had already consulted Rives regarding the course that should be pursued.¹¹³ In October and November the Virginian exchanged several letters with the vice-president in which the situation was discussed fully. Rives' opposition to reprisals or congressional action continued. He believed that reprisals would result in the total repudiation of the treaty by France, for the French would take it as an insult to national honor; and this in turn would lead straight to war. He repeated his earlier suggestion for the use of commercial restrictions.¹¹⁴ In his opposition to reprisals he was supported by Livingston, who had written the secretary of state that he thought some form of commercial restrictions would be much less likely to bring unfortunate results and at the same time be effective.¹¹⁵

The French minister was keeping in close touch with the situation. In an interview on October 22 with John Forsyth, who had succeeded McLane in the state department, he found the secretary "cold and polite." When

¹¹² Jackson to Van Buren, October 5, 1834, in Van Buren Papers.

¹¹³ See *ante*, 118.

¹¹⁴ Rives to Van Buren, October 14, November 15, 18, 1834, in Van Buren Papers.

¹¹⁵ Livingston to Forsyth, August 4, 1834, in Notes from Ministers to France, XXVII.

Serurier urged that a "discreet" course be adopted, the head of the state department replied that Jackson was "deeply mortified," that three years had passed without the treaty being ratified by France and that his determination, which had already been communicated to the French government, to communicate to congress complete information as to the state of the negotiations, remained unchanged. Serurier, finding this course definitely decided upon, then asked, "What do you wish, Monsieur, a collision between us, or the execution of the treaty?" To this Forsyth replied, "The execution of the treaty, but the President owes to the people of the United States and to their Representatives, an account of his proceedings and of the state of this affair."¹¹⁶

A month later the French minister paid another visit to the secretary of state in order to ascertain if possible what the president would say to congress. Forsyth expressed the belief that Jackson would present a complete and faithful account of the state of affairs to congress. Serurier then asked if this would be all. The secretary of state replied that the constitution made it mandatory on the president to make recommendations as to the policy to be pursued. Forsyth thought that the executive would advise that no step be taken until after congress had been informed of the final decision of the chambers. Jackson would probably express the fear that this decision would not be forthcoming before time for the adjournment of congress, in which case the legislative body would decide upon the steps necessary to be taken.¹¹⁷

The last note which Serurier sent to his government

¹¹⁶ Serurier to Rigny, October 22, 1834, No. 110, A.E., États-Unis 88.

¹¹⁷ Serurier to Rigny, November 20, 1834, No. 113, *ibid.*

prior to the delivery of the message advised that the communication would be "very painful."¹¹⁸ The expectation of a "hostile tone in the President's message" was so great that the sailing of the Liverpool packet on December 1 was "delayed until the third in order to enable her to carry out that document."¹¹⁹

The following account of the preparation of the message indicates the important part that Jackson played in its construction.

. . . On the question of demanding the five millions from France, he had been peremptory in his tone, and no council of Cabinet or friend could mitigate or temper his demand.

On that subject he had himself dictated the very language he would employ in uttering a threat direct to Louis Philippe. The Cabinet consulted to change the phraseology. Mr. Forsyth, then Secretary of State, was adroit in language, and wisely, he thought, changed the paragraph which the President had dictated. The change in words was but a shade different in meaning; but he sought to make the message more diplomatic in terms and more conformable, of course, to peaceful and courteous national intercourse. It was in vain. When Mr. Andrew J. Donelson, the President's private secretary, brought to him the proof-sheets of the message, Mr. John C. Rives, of the *Globe*, was present.

Mr. Donelson read, whilst the general walked the room, pipe in his mouth, smoking, and the printer the only attendant. All was quietly listened to until the reader came to the passage relating to the five millions debt due by France. Mr. Donelson was evidently desirous so to read the paragraph on that subject as to avoid notice of the change in words which had been made. General Jackson at once paused in his walk, stopped, and said, "Read that again, sir." Mr. Donelson then

¹¹⁸ Serurier to Rigny, November 29, 1834, No. 115, *ibid.*

¹¹⁹ Tuckerman (ed.), *Diary of Philip Hone*, I, 121 (November 29, 1834).

read the passage distinctly, and General Jackson was instantly roused, saying, "That sir, is not my language; it has been changed, and I will have no other expression of my own meaning than my own words."

He immediately and vehemently had the change erased, and his own language, even more strongly importing a threat, inserted, heard the message read through, and then placed it in the hands of Mr. Rives, forbidding him to let it be seen in his hands, or to let it pass out of his hands, until after it was printed as corrected and until permission was granted by him, "at his peril."¹²⁰

Jackson in his annual message to congress gave a brief account of the events that led to the signing of the treaty of July 4, 1831. He then presented a complete exposition of the negotiations between the two countries regarding the execution of the treaty. The president told congress that on the one occasion when the bill for the appropriations of the necessary funds had come before the chamber of deputies, it had been defeated. He asserted that this information had not been communicated to congress owing to assurances reaching him from the French government that a new chamber would be assembled and "the proposition for an appropriation laid before them; that all the constitutional powers of the King and his cabinet should be exerted to accomplish the object, and that the result should be made known early enough to be communicated to Congress at the commencement of the present session." The president said that the French government had not fulfilled this promise but they had given "the most positive assurances . . . of their intention to

¹²⁰ Henry A. Wise, *Seven Decades of the Union* (Philadelphia, 1872), 145-46. This story appears with minor variations in Ben Perley Poore, *Perley's Reminiscences of Sixty Years in the National Metropolis*, 2 vols. (Tecumseh, Mich., 1886), I, 112-13.

press the appropriation at the ensuing session of the Chambers." If congress was inclined to await their decision nothing needed to be done, but if they,

from the original delay in asking for an appropriation, from the refusal of the Chambers to grant it when asked, from the omission to bring the subject before the Chambers at their last session, from the fact that, including that session, there have been five different occasions when appropriation might have been made, and from the delay in convoking the Chambers until some weeks after the meeting of Congress, when it was well known that a communication of the whole subject to Congress at the last session was prevented by assurances that it should be disposed of before its present meeting, you should feel yourselves constrained to doubt whether it be the intention of the French Government, in all its branches, to carry the treaty into effect, and think that such measures as the occasion may be deemed to call for should be now adopted, the important question arises what those measures shall be.

Jackson thought that laws regulating the trade between the two countries could be passed which would seriously affect the interests of France, but there were "powerful and to my mind conclusive objections to this mode of proceeding." But convinced that the United States should insist on a prompt fulfillment of the treaty and, in case it was refused any longer, take redress in their own hands, he proposed that the government adopt the "well-settled principle of the international code that where one nation owes another a liquidated debt which it refuses or neglects to pay the aggrieved party may seize on the property belonging to the other, its citizens or subjects, sufficient to pay the debt without giving just cause of war."

If the French chambers at their next session refused to

make the appropriation, the just conclusion would be that France had finally determined to disregard its own solemn undertaking and to refuse to pay a just debt. In such an event, longer forbearance on the part of the United States would be considered a stain on "our national honor." Jackson therefore recommended "that a law be passed authorizing reprisals upon French property in case provision shall not be made for the payment of the debt at the approaching session of the French Chambers." The president thought that such "a measure ought not to be considered by France as a menace. Her pride and power are too well known to expect anything from her fears and preclude the necessity of a declaration that nothing partaking of the character of intimidation is intended by us."¹²¹

¹²¹ Richardson (ed.), *Messages and Papers of the Presidents*, III, 100-107.

CHAPTER VI

THE CRISIS

THE general expectation in the United States seems to have been that the president would present to congress the difficulties with France in a firm but friendly spirit, with, perhaps, a recommendation that restrictive commercial legislation be resorted to in case France refused compliance with the treaty in the course of the sitting of the new chambers. When Jackson assumed a strongly nationalistic tone and suggested the taking of "redress in our hand," he aroused a nation-wide interest in the matter which brought on the one hand bitter reproaches upon the administration for its hazardous experiment, and on the other vehement defenses of such a program. A matter which had been largely local in interest was transformed into one of "national honor," threatening to involve the two nations in war.

The *National Intelligencer* saw in that part of the president's message dealing with France "the spirit of the old soldier, resentful of injury, real or supposed, impatient of delay, and reckless of the consequences in pursuit of redress for it." The question was: Would the people of the United States follow their leader headlong into war or would they consider the cost? The *National Intelligencer* had heard rumors that Jackson's advisers had attempted to get "yet a milder tone towards France" but that the president had not yielded to their advice. This

paper thought that if the French nation failed to see that "the tone of intimidation and menace used by the chief magistrate on this occasion" was merely the expression "of the personal opinion and feeling of the individual who occupies that station" and not of the people of the United States, war might result. This organ was not willing to absolve France of all responsibility in the affair. It considered that the European state had violated that law "which prescribes an inviolable faith among nations" and that it ought at any sacrifice "to have paid the amount of indemnity stipulated by the Treaty."¹ It reaffirmed its belief that the failure of France to fulfill the treaty arose from the boastfulness "of Rives, Jackson and the official press" on their overreaching of the French officials.²

Francis P. Blair, writing in the *Globe*, considered that the *National Intelligencer* was manifesting an unpatriotic spirit "in its effort to persuade foreign nations, that the administration has not the confidence or support of the American People." The official organ had hoped that "our country" would have presented an undivided front in this controversy, and that France, conscious of the wrongs committed, would make immediate reparation. Blair thought that if France should "push her injustice to the point of actual war the responsibility for all the destruction of human life, and of valuable property which may ensue, *will justly rest upon the heads of the Editors of the National Intelligencer and those who may speak and act upon the basis presented in the article upon which we are commenting.*" The article in the *Globe* pointed out the fact that this message was sent, not to France, but

¹ Washington *National Intelligencer*, December 4, 1834.

² *Ibid.*, December 6, 1834.

to congress, in pursuance of a constitutional requirement. Jackson had merely fulfilled his duty and the French government had no right to consider the document other than a mere exchange of opinions between the different departments of the government.³ This was to be the official position of the American government throughout the controversy over the language of the message and it is to be noted that Livingston had the opportunity of reading this editorial in the *Globe* before he offered any explanations to the French government.

On December 5 Serurier sent a note to Rigny commenting on the reception of the message. He had not been able to determine what the reaction of congress would be. The minister was sure that the message was the work of the president and that it had been opposed by a large majority of his cabinet. He sent with the note a copy of the *National Intelligencer* containing the editorial on the message, and expressed the belief that these comments represented the opinion of a large section of the population. He reminded the count that under previous administrations this paper had been the official organ. Serurier was so deeply impressed with the delicacy of the situation, however, that he gave his government detailed accounts of the military and naval conditions in America and suggested the policy which should be adopted in order to insure the initial victories in case of war.⁴

The British minister, Sir Charles Vaughan, also expressed the opinion to his government that the request for a law of reprisals "is a measure which has emanated exclusively from the President and is not altogether ap-

³ *Washington Globe*, December 5, 1834.

⁴ Serurier to Rigny, December 5, 29, 1834, Nos. 117 and 121, A.E., États-Unis 88.

proved by the Ministers." Vaughan thought that congress might not feel itself called upon to act and he did not perceive "any symptoms of public excitement which are likely to drive the congress rashly into the authorizing a resort to force."⁵ By the middle of the month the British minister was sure that there was a growing sentiment in the country to support the president in his demands. He felt, however, that congress would not act until the proceedings of the French chambers were known.⁶

Philip Kearney, who had just returned from France, where he had served as a United States consul, wrote Forsyth that "the President's message is of the right tone—if they can stomach the charges, the threat; . . . but Frenchmen talk a great deal of their honor— If they get over these parts it will have an admirable effect in Europe and at home."⁷ Rives would have taken another mode of managing the affair, but he thought that the people of the country should rally in support of the president, for the action of France in the matter has been "extremely unjustifiable."⁸ Washington Irving wrote Van Buren that "excepting that point [recommending reprisals on French commerce], I relish highly the tone in which the French affair is treated."⁹

The Whig diarist, Philip Hone, found the message as usual too long,

⁵ Vaughan to Palmerston, December 4, 1834, No. 100, F.O. 5, America 293.

⁶ Vaughan to Palmerston, private, December 20, 1834, *ibid.*

⁷ Philip Kearney to Forsyth, December 8, 1834, in Miscellaneous Letters, Nov.-Dec., 1834, The National Archives.

⁸ Rives to Niles, December 6, 1834, in Nathaniel Niles Papers, Division of Manuscripts, Library of Congress.

⁹ Washington Irving to Van Buren, December 15, 1834, in Van Buren Papers.

but the people have become accustomed to take these annual outpourings of executive wet nurses in pretty large doses, and rely more upon the efficacy of a bottle of Congress water than on the concentrated virtue of a Seidlitz-powder; and so Dr. Jackson, who can make his patients swallow anything, has, by the aid of his regular-bred practitioners in the study, and the green apron boys below, managed to give the body politic enough to insure tolerable regularity until his next regular visit.

The section dealing with France was the most interesting to the diarist. Hone pronounced it "quite satisfactory; its language dignified, and its sentiment manly and patriotic." He felt, however, that the recommendation to resort to reprisals would counteract "the good effects of the firm but courteous style in which our claims for justice are set forth in the message and weaken our cause with the lookers-on in other countries."¹⁰ One of Daniel Webster's political supporters, who was laying the foundations for the Massachusetts senator's presidential campaign in 1836, found that "this affair with France is at this time in a very unhappy posture for the Whigs—but I hope it may be got rid of without war, although if need be we must meet it—for they deserve it and have for a long time."¹¹

The press did not permit the public to forget the action that had been taken or the prospects for the future. The two leading Washington papers took advantage of the opportunity to hurl epithets at each other, neglecting, in a large measure the controversy with France. Both papers gave a large amount of space to the reprinting of editorials

¹⁰ Tuckerman (ed.), *Diary of Philip Hone*, I, 122.

¹¹ Taggard to Daniel Webster, December 17, 1834, in Webster Papers, Division of Manuscripts, Library of Congress.

which appeared in other newspapers, favorable to their own contentions.¹²

That portion of the president's message dealing with the relations with France had been referred to the proper committees of the respective houses. In the senate the committee on foreign relations was composed of five members, three of whom—Henry Clay, Willie P. Mangum, and Peleg Sprague—were strongly anti-Jackson. The *Globe* was sure that there were no three men in the French chambers "more anxiously bent upon thwarting the measures of General Jackson's administration."¹³ It had been generally expected that neither house of congress would take any action until the proceedings of the French chambers were known. Clay, however, deemed that the president's message should be followed by a palliative, and succeeded in persuading the senate committee to bring in a report on January 6.¹⁴

In a twenty-page report the senate committee presented an exposition of the controversy that did not differ materially from that of the president. The committee agreed with the president that under public law the United States had the right to engage in reprisals without furnishing a just cause of war to France, but the committee observed further that "they are not unfrequently the immediate precursor of it." The French government had promised to bring the matter before the current session

¹² *Washington Globe*, December 11, 12, 15, 16, 17, 19, 22, 23, 24, 29, 1834; *Washington National Intelligencer*, December 20, 22, 23, 1834, and especially the issue of January 1, 1835, in which opinions from eleven Whig papers are quoted.

¹³ *Washington Globe*, December 17, 1834.

¹⁴ *Washington National Intelligencer*, January 7, 1835.

of the chambers. Congress was advised to await the final action of the French chambers and "until it is made . . . it seems to the committee, nothing should be done on our part to betray suspicion of the integrity of the French Government" ¹⁵ Clay submitted a resolution, which, after being revised to meet the objections of John P. King of Georgia and Webster, received a unanimous vote. The revised resolution declared that "it is inexpedient at present to adopt any legislative measures in regard to the state of affairs between the United States and France." ¹⁶

The *National Intelligencer* saw in this resolution "proof of the pacific temper of the Senate." It was evident that there was no "morbid appetite" for war among the "grave and considerate" portion of the American people. The prompt action of the senate in taking this stand would do much to allay the "irritation created in the French Chambers by the menacing tone of the President." ¹⁷ The *Globe* failed to become enthusiastic over the proceedings in the senate, but it did not object to them. ¹⁸ The unanimous vote which this resolution received indicated that Jackson was not eager to force the country into war, if the issue could be settled by diplomatic methods. It was generally conceded that no further steps would be taken by either house until after news had been received of the action taken by France. ¹⁹

In November, Livingston wrote from France that noth-

¹⁵ Report of Committee on Foreign Relations, in *Senate Documents*, 23 Cong., 2 Sess., No. 40, pp. 47-68.

¹⁶ *Register of Debates*, XI, Pt. I, 200-16.

¹⁷ Washington *National Intelligencer*, January 15, 1835.

¹⁸ Washington *Globe*, January 15, 1835.

¹⁹ Webster to Jeremiah Mason, January 10, 1835, in Webster Papers.

ing would be done until the middle of January. He asserted that one of the motives for delay was the expectation of the arrival of the presidential message with something "to show a strong national feeling on the subject." The minister thought that the moderate tone taken by the United States in its dealings with France had been one of the causes of delay in the final settlement of the affair. It was for this reason that he anxiously awaited the arrival of the message.²⁰

The chambers had been called in session on December 1. While the primary cause for the early assembling of the legislature appears to have been the domestic situation, Serurier's later dispatches may have given the government some uneasiness. The French ministry was given a vote of confidence by the chambers, which Livingston thought materially strengthened their position. The American minister was unable, for the time being, however, to persuade them to risk their popularity by a submission to the chambers of the bill providing for the execution of the treaty.²¹ Livingston placed before members of the cabinet and members of the chambers the importance of the passage of the law, expressing his belief that a second failure would result in a rupture of relations between the two countries. He was not able to secure any promise of united ministerial support for the measure when it came before the lawmaking bodies. This created some uneasiness in his mind as to the ultimate outcome and he awaited the arrival of the annual message with impatience.²²

In order to receive the address at the earliest possible

²⁰ Livingston to Forsyth, November 22, 1834, in Notes from Ministers to France, XXVII.

²¹ Livingston to Forsyth, December 6, 1834, *ibid.*

²² Livingston to Forsyth, December 22, 1834, *ibid.*

moment, Livingston hired a courier to bring it to him as soon as it should arrive at Havre. Copies of the message arrived in the capital on the morning of January 8. Livingston's dispatch of January 11 informed his government of the reception of the message in Paris and the probable influence it would have:

. . . The contents being soon known caused the greatest sensation which as yet is I think unfavorable. The few members of the Opposition who would have voted for the execution of the treaty now declaring that they cannot do it under threat of reprisals, and the great body of that party making use of the effect it has on national pride to gain proselytes from the ministerial side of the Chamber in which I have no doubt they have in a great degree for the time succeeded.

The ministers are aware of this and will not I think immediately urge the consideration of the law, as I have no doubt they were prepared to do when the message arrived. Should Congress propose commercial restrictions or determine to wait the end of the session before they act this will be considered as a vote against reprisals and then the law will be proposed and I think carried. But I ought not to conceal from you that the excitement is at present very great and that their pride is deeply wounded by what they call an attempt to coerce them by threats to the payment of a sum which they persist (in opposition to the plainest proof) in declaring not to be due. This feeling is fostered by the language of our opposition papers, particularly by the *Intelligencer* and *New York Courier*; extracts from which have been sent on by Americans declaring them to be the sentiments of a majority of the people, these as you will see are translated and republished here with such comments as they might have been expected, and undoubtedly were intended to produce and if hostilities should take place between the two countries those persons may flatter themselves with having the credit of a great share in producing

them. . . . Whether the energetic language of the message will be made the pretext with some or be the cause with others among the deputies for rejecting the law cannot of course be yet conjectured with any great degree of probability but I think it will have a good effect. It has certainly raised us in the estimation of other powers, if I may judge from the demeanor of their representatives here, and my own opinion is that as soon as the first excitement subsides it will operate favorably on the counsels of France.²³

For the first time the Parisian press considered the American question of enough importance to give considerable space to it. The Paris *Journal des Débats*, which was a ministerial organ, deplored "the unexpected appearance of a document, which wounds the most noble and holy susceptibilities of a great people." The fact that only one branch of the American government had spoken justified the French in not accepting the menace seriously. This paper thought that the question of "national honor" would have to be reconciled with the "faith of treaties." The Paris *Journal du Commerce*, which was antiministerial, believed that if "French property is seized that United States property should also be seized in France." It considered the message "both mistaken and unskilful." The moderate press represented by the Paris *Journal de Temps* found the message "a proclamation of undue violence" in which Jackson showed himself "an arrogant logician and self willed patriot."²⁴ The message produced a sensation on the bourse and resulted in a rapid decline in the price of French securities.²⁵ The activities of the French gov-

²³ Livingston to Forsyth, January 11, 1835, *ibid.*

²⁴ Paris *Galignani's Messenger*, January 10, 1835. Many other extracts from the French press are given here.

²⁵ *Ibid.*, January 9, 10, 1835.

ernment in allaying public excitement, the moderate tone of the official journal, and the publication of the editorials which appeared in the *National Intelligencer* of December 2, combined to bring about an improvement. The recall of the French minister from Washington resulted in a second decline but such a small one as to indicate that the action was considered as "unlikely to be followed by any serious consequence."²⁶

In Great Britain and the Netherlands the message aroused considerable comment. Aaron Vail, chargé d'affaires in England, reported that the press perceived in the action of the president an attempt to awaken the attention of the French people to the subject and to force action upon the French chambers. The prime minister had received advices from the British ambassador in Paris which indicated that the French government evidenced a disposition to allay the excitement as much as possible and then to present the matter to the French chambers.²⁷ Auguste G. V. D'Avezac, minister to the Netherlands, wrote that the general opinion was that the "energetic tone of the message would add to our national prestige."²⁸

Five days after the receipt of the message in Paris, Livingston discussed it with the foreign minister. The American envoy expressed regret that the message had been so much "misrepresented" in France as to be construed as a threat of hostilities. He urged that the French government could not take official cognizance of it since it was merely a communication from one branch of the Amer-

²⁶ *Ibid.*, January 15, 1835.

²⁷ Aaron Vail to Forsyth, January 14, 1835, in *Dispatches from England*, XLIII.

²⁸ Auguste Teneviène Valentin D'Avezac to Forsyth, January 20, 1835, in *Dispatches from Netherlands*, X.

ican government to another, required by the constitution of the United States. In this conversation, Rigny let it be known that the part of the message to which the French objected was that which called into question the good faith of the French government in not assembling the chambers at an earlier date.²⁹ In a note, which Rigny prepared for Livingston on the same day of the conference, the foreign minister gave at some length the official attitude of his government. The insinuations of moral delinquency on the part of the French government, Rigny asserted, were unfounded. He reverted to the old arguments³⁰ in justification of not having brought it before the chambers at the July meeting. As for a special session, it would have increased the "prepossessions of the public, already too numerous" against the treaty, without attaining "the results the President had in view, of permitting the announcement of the results of their final decision at the opening of Congress." The king's government, "wounded" though they were by the groundless "imputations," had determined to ask the chambers for an appropriation to meet the engagements of the treaty. At the same time, his majesty, considering it due to his dignity "no longer to have his minister exposed to hear language so offensive to France," had ordered Serurier home. Livingston was offered his passports if he desired them.³¹

Livingston did not wish to take the responsibility for a severance of diplomatic relations, and so he informed Rigny that unless his note was "intended as a direction

²⁹ Livingston to Forsyth, January 14, 1835, in Notes from Ministers to France, XXVII.

³⁰ See *ante*, 115-116, 124.

³¹ Rigny to Livingston, January 13, 1835, in Notes from Ministers to France, XXVII.

that he should quit the French territory" he would await the instructions of his own government.³² He considered the action of the French government merely an attempt to save its pride.³³

In the meantime the Rothschilds were taking an active interest in the affair. Baron Lionel N. Rothschild was acting as an intermediary between Livingston and Rigny in an attempt to prevent a rupture.³⁴ Nathan M. Rothschild, the head of the London house, wrote the secretary of state offering to advance "to the Government of the United States any sum of money it may be in want of . . . for any purpose, in case the differences with France should not be settled amicably."³⁵

The French minister of finance presented a bill to the chamber of deputies on January 15 authorizing the fulfillment of the treaty. The speech which the minister made in the presentation of the bill was of a pacific character and resulted in an immediate rise of prices on the bourse. A reservation was attached to the bill providing for payment only in case the American congress had authorized no reprisals.³⁶ Livingston felt sure that the bill would pass by a considerable majority as the ministry had decided to make it a cabinet question.³⁷

³² Livingston to Rigny, January 14, 1835; Livingston to Forsyth, January 15, 1835, *ibid.*

³³ Livingston to Forsyth, January 14, 1835, *ibid.*

³⁴ Livingston to Forsyth, January 15, 1835, *ibid.*

³⁵ N. M. Rothschild to Forsyth, January 14, 1835, in *Miscellaneous Letters*, Jan.-Mar., 1835.

³⁶ Paris *Galvani's Messenger*, January 15, 16, 1835; Livingston to Forsyth, January 16, 1835, in *Notes from Ministers to France*, XXVII.

³⁷ Livingston to Forsyth, January 22, 1835, in *Notes from Ministers to France*, XXVII.

The commercial and manufacturing areas of France that would have been most affected by a break with the United States were sending memorials to the chambers urging the passage of the bill.³⁸ The *Journal des Débats* considered that "the depredations committed on American commerce were among the most flagrant violations of neutrality" and that they should be paid to establish the principle of neutral rights.³⁹ The ministerial journal considered that a break with the United States would be "most impolitic, that which would cause the loudest laughter at St. Petersburg, Berlin and the Hague, and which would most afflict all the friends of liberty in Europe." This journal reminded the public of the intrigue that would be set on foot against the state in Europe while "we are stupidly warring against . . . brother free-man abroad."⁴⁰

The Paris correspondent of the London *Morning Post* was sure that whatever the issue of the controversy, Louis Philippe "has no idea of anything more than a bullying sortie, and that it will not be his fault if any gunpowder should ignite in consequence of this feud." The correspondent wrote that Louis Philippe might gratify the "warlike propensities" of his people with an "insulting irruption" into the defenseless capital of a neighboring state, but "the time has not come when the Citizen King

³⁸ Paris *Galignani's Messenger*, January 14, 1835; Paris *Times*, January 11, 1835, quoted in Washington *Globe*, February 21, 1835; Paris *Le Constitutionnel*, February 6, 1835, quoted in Washington *Globe*, March 16, 1835.

³⁹ Paris *Journal des Débats*, January 16, 1835, quoted in Washington *National Intelligencer*, February 24, 1835.

⁴⁰ Paris *Journal des Débats*, January 16, 1835, quoted in Washington *National Intelligencer*, March 2, 1835.

will deem himself secure enough at home to engage in a struggle with such a state as America." ⁴¹

The opposition to the bill found many reasons to justify a refusal to pay. It was convinced that the settlement had been made for too large a sum. An article supporting this view was printed over Serurier's name in the *Paris Tribune*. The author went so far as to say that a settlement could have been made for twelve million instead of twenty-five million francs and "that the United States could not be kicked into a war with France." Serurier's supposed authorship of the article was generally considered as one of the causes for his recall.⁴² Livingston thought that the tone of the opposition press in America was doing a great deal to convince the people of France that the executive was not supported by the people of the United States.⁴³ The attitude of the American press no doubt confirmed the opposition party of the chamber of deputies in the feeling "that a second refusal may be hazarded without any serious risk of a rupture with the Government of the United States." ⁴⁴ Rumor that the signing of the treaty had been preceded by the buying up of American debts by high French officials who would be the ones to profit by the final settlement had been rife. Louis Philippe, Louis Adolphe Thiers, Marthe C. B. Montalivet, and sundry bankers were the persons most often

⁴¹ London *Morning Post*, quoted in Washington *National Intelligencer*, February 23, 1835.

⁴² Paris *La Tribune*, quoted in Washington *Globe*, February 24, 1835. Serurier denied the authorship of this article. See Vaughan to Wellington (Arthur Wellesley), No. 12, February 25, 1835, F.O. 5, America 300.

⁴³ Livingston to Forsyth, January 29, 1835, in Notes from Ministers to France, XXVII.

⁴⁴ Private correspondent from Paris, January 24, 1835, in Washington *National Intelligencer*, March 2, 1835.

mentioned in this connection. These rumors, even though they might have been unfounded, naturally excited a great deal of public opposition to the treaty.⁴⁵ Another factor in the opposition to the projected bill was the lack of consideration which it showed for the honor and dignity of the country. The hope was expressed that the chambers would "know how to accomplish it."⁴⁶

The French chambers were also prejudiced against action by the generally accepted opinion that there existed between the executives of the two countries an understanding that Jackson would use strong language in his message to congress as an aid in arousing the reluctant chambers to action.⁴⁷ This explanation has been accepted by some students of the period to account for the more controversial parts of Jackson's message of 1834.⁴⁸ Direct documentary evidence to support such an assertion has not been found, but the mere fact that such a statement was afloat would certainly account in part for the hesitancy of the chambers in voting the appropriation.

The bill was referred by the chamber of deputies to a committee for examination. Vail received information "from a source he was not at liberty to name, but whose access to correct information in such matters is undoubted," that on a very recent occasion "assurances were given by the highest authority in the French government,

⁴⁵ London *Morning Post*, January 16, 1835, quoted in Washington *National Intelligencer*, February 23, 1835; Paris *National*, quoted in Washington *National Intelligencer*, March 2, 1835; Leavett Harris to Van Buren, January 29, 1835, in Van Buren Papers.

⁴⁶ Paris *Journal du Commerce*, January 15, 1835, quoted in Washington *National Intelligencer*, February 24, 1835.

⁴⁷ M.P., "Lettre Politique. Reclamations des États-Unis," in *Revue des Deux Mondes* (Paris), 4 Series I (1835), 310-30.

⁴⁸ For example, James Parton, *Life of Andrew Jackson*, 3 vols. (New York, 1860), III, 568-69.

of the most confident belief that the Bill reported by the Minister of Finance will pass the Chamber of Deputies, and that the matter will thus be soon amicably adjusted.”⁴⁹ Livingston was not so sanguine in his expectations. He found that political conditions were unsettled and that a change of ministry would likely result.⁵⁰ He was not sure that such a change would be unfavorable to the United States,⁵¹ but he asked his government for instructions as to the policy to pursue in case of a second rejection.⁵²

In a note to Count de Rigny, dated January 29, Livingston presented the action of the president in its most favorable light. The American minister avowed that it was not his intention to “excite irritation or increase difficulties which already unfortunately exist” but to consider the objections advanced by the French government to the presidential message. The foreign minister had expressed astonishment at receiving “the first communications” of American complaints through the presidential message. Livingston observed that if this were true his “verbal representations” and entire correspondence must have been forgotten. He referred especially to his notes of April 26 and 29 as precisely indicating the action that would be taken by his government.

Rigny had argued that the complaints on the part of the president were groundless. Livingston pointed to the “moderation and forbearance” which the United States had shown in waiting for two years for “the performance

⁴⁹ Vail to Forsyth, January 22, 1835, in *Dispatches from England*, XLIII.

⁵⁰ Livingston to Van Buren, January 29, 1835, in *Van Buren Papers*.

⁵¹ Livingston to Forsyth, February 24, 1835, in *Notes from Ministers to France*, XXVII.

⁵² Forsyth to Livingston, February 13, 1835, in *Instructions to United States Ministers to France*, XIV.

of a treaty . . . to pay a just indemnity for which they had already waited more than twenty years." Upon rejection of the law by the chamber of deputies, Serurier, following instructions from his government, informed the American government that "every legal and constitutional effort would be made to hasten the presentation of the new law." The performance of this promise had been urged upon the French officials by the American minister, but they had indicated, by not convoking the chambers until the last of December, their intention of delaying the presentation of the new law "to the most remote period." The president had found upon the most careful consideration that the objections offered to the assembling of the chambers were not such as to justify a further delay in presenting the matter to congress.

The correctness with which the president had presented "the ratification of the Treaty, its effect in pledging the faith of the nation, the fidelity with which the United States have executed it, the delay that intervened before it was brought before the chambers, their rejection of the law, the assurances made by Mr. Serurier, the forbearance of the President to make a communication to Congress in consequence of those assurances and the adjournment of the question by His Majesty's Government to the end of the year" had not been denied. In consequence of these facts, Jackson presented to congress propositions which were a part of his constitutional duty. In offering them for the consideration of congress, Livingston reminded Rigny that the president "felt and expressed a proper regret" and explicitly "disavowed any intention of influencing it [France] by a menace." Livingston reasserted the statement that he had formerly made that no "obliga-

tion to give explanations" of a presidential message could be admitted. It was a communication between branches of the American government and as such could not be called into question by a foreign government.⁵³

The report of the senate committee on foreign relations reached France early in February. The French press thought "that it completely overthrows the President and his message,"⁵⁴ checking his "warlike propensities at the outset." It was thought that this note might induce the French deputies "to take a more favourable view of the claims, as the outrage on French honour, of which they are so fond of talking, will be wiped off."⁵⁵ Livingston reported that stress was laid on the senate committee report "as having taken away objections to passing the law, but be assured it was the apprehension of a rupture and if an energetic message had not been sent we should never have received the indemnity."⁵⁶ Livingston had earlier expressed the opinion that if congress failed to adopt "energetic measures if the treaty be rejected, it will be rejected or modified, which is equivalent to a rejection."⁵⁷

The unsettled ministerial situation in France brought a shift in the organization of the ministry which returned Broglie to the head of the department of foreign affairs and placed him at the head of the council of ministers. The change seems to have had no connection with the Amer-

⁵³ Livingston to Rigny, January 29, 1835, in Notes from Ministers to France, XXVII.

⁵⁴ Paris *Le Constitutionnel*, quoted in Paris *Galignani's Messenger*, February 9, 1835.

⁵⁵ Paris *Standard*, quoted in Paris *Galignani's Messenger*, February 9, 1835.

⁵⁶ Livingston to Forsyth, February 3, 1835, in Notes from Ministers to France, XXVII.

⁵⁷ Livingston to Forsyth, January 29, 1835, *ibid.*

ican situation and apparently had no influence on it.

The chamber of deputies had ordered on January 15, 1835, the printing of the law which provided for the execution of the treaty. Further action was delayed in the expectation that public opinion in France might be crystallized and additional information secured as to the probable policy of the United States. It was not until February 5 that the chamber was ready to appoint a committee to consider the matter,⁵⁸ and it was March 28 before a report was made. The only new material contained in this report was that relating to President Jackson's annual message to congress of December 2, 1834. The committee attributed Jackson's position to a misunderstanding of the French constitution and suggested that an acceptable explanation of his message would be necessary before France could fulfill the treaty. At the same time the chamber was warned that, while it had acted within its constitutional right in rejecting the law providing for the execution of the treaty, a respect for the dignity of France required that the legislature take this action only in extreme and unusual situations.

Deputy Berryer immediately advanced objections to the report and the proceedings of the ministry. Berryer thought the tone of Jackson's message was due to the prompting of Livingston, who had written that the action of the French chamber would be determined by the message. The speaker also expressed the belief that the ministry had suggested this course to Livingston as an effective method of bringing pressure to bear upon the chambers. Broglie immediately rose to deny that the ministry was in any way responsible for Jackson's utterances. Although

⁵⁸ *Archives Parlementaires*, XCII, 336.

Brogie contended that the president's message was not an official act of the United States government and therefore not subject to consideration by the French government, the king's ministry had recalled its representative from Washington and offered the American minister his passports. He thought that this was sufficient protection of French honor and that every consideration of right and equity demanded the approval of the treaty.⁵⁹

The decisive debate on the treaty began on April 9, 1835. The number of members of the chamber participating in the debate was much larger than in March and April, 1834. Those who spoke in support of the treaty and of the ministry were particularly active. The long-drawn-out discussion was barren of new arguments so far as the merits of the treaty were concerned. The debates revealed that the deputies resented the tone of President Jackson's message to congress. By accepting an amendment proposed by Eleonor Bernard A. Valazé, the French ministry secured the approval of a law providing for the execution of the treaty. The Valazé amendment required that before any payments were made to the United States the French government must receive satisfactory explanations of the offensive phrases appearing in the message.⁶⁰

Several observers thought that the amended bill complicated the difficulties existing between the two countries. Humann, minister of finance, felt that the ministry, in consenting to accept such an amendment, was trying to shift the responsibility to him. It was rumored that he would not authorize any payment until the "Chamber had

⁵⁹ *Ibid.*, XCIII, 656-82.

⁶⁰ *Ibid.*, XCIV, 395 ff.

declared itself satisfied with the reparation made.”⁶¹ *Le Constitutionnel* thought that “serious difficulties might arise out of General Valazé’s amendment.” This newspaper thought it certain that no apology would be coming from General Jackson, and his term in the presidency did not expire until “May.”⁶² D’Avezac, minister to the Netherlands and brother-in-law of Edward Livingston, wrote that the passage of the bill with the amendment had created a “deep sensation” at the Hague. He thought that this action would lead to greater difficulties in the pacific settlement of the affair than had “existed previous to the vote in question.”⁶³

Livingston had been instructed to withdraw from France in case the appropriation was not made. After the passage of the bill with the Valazé amendment, Livingston determined to return home. Before leaving Paris he sent a final note to Broglie, justifying the course his country had taken in the dispute. The American minister pointed to his note of January 29 to Rigny, written before the passage of the bill with the Valazé amendment by the deputies as offering all the explanations the French government had a right to expect. He informed Broglie that this note had since received the “full and unqualified” approval of the president, emphasizing the fact that this was given voluntarily before any “intimation” that such explanations would be required as a condition of payment. This note also refuted the charges that the message “impeaches the good faith of its majesty’s government” and

⁶¹ Paris *Le Constitutionnel*, April 25, 1835, quoted in Paris *Galvani’s Messenger*, April 27, 1835.

⁶² *Ibid.*

⁶³ D’Avezac to Forsyth, April 24, 1835, in *Dispatches from Netherlands*, X.

that it "contained a menace of enforcing the performance of the treaty by reprisals."⁶⁴

After the adoption by the American senate of the resolution of January 14, it appeared that nothing further would be done regarding French affairs until news of the action taken by France was received. In compliance with a resolution of the house, Jackson sent them on February 6 the correspondence concerning the affair which had passed between the representatives of the two countries since the opening of congress.⁶⁵ One of the notes submitted was Livingston's dispatch of November 22, 1834, which urged that a "strong national feeling" be shown on the subject.⁶⁶ As a result of this suggestion a number of speeches were made in the house of representatives on the question.⁶⁷

One of the most interesting of these speeches was that delivered by John Quincy Adams on February 7, supporting a bill which he presented, endorsing the energetic measures of the administration.⁶⁸ This speech, coming from one who had no cause to love the administration, supported the position of the executive in a more positive manner than any delivered by Jackson's most ardent supporters.⁶⁹ While Adams himself might have felt the neces-

⁶⁴ Livingston to Broglie, April 25, 1835, in *Notes from Ministers to France*, XXVII.

⁶⁵ Richardson (ed.), *Messages and Papers of the Presidents*, III, 129 ff.

⁶⁶ Livingston to Forsyth, November 22, 1834, in *Notes from Ministers to France*, XXVII.

⁶⁷ *Register of Debates*, XI, Pt. I, 1119-1246.

⁶⁸ *Ibid.*, 1222.

⁶⁹ Bennett Champ Clark, *John Quincy Adams, "Old Man Eloquent"* (Boston, 1932), 320-40; Claude G. Bowers, *Party Battles of the Jackson Period* (New York, 1922), 386-423.

sity of using the strong arm in the relations with France, the fellow citizens of his own commonwealth were not so inclined. The senatorial election had been in progress in the Massachusetts legislature for some weeks, with Adams and Governor John Davis in the leading positions. Reverberations of the unpopularity of his address of February 7 reached Adams in time for him to recant before the house on the 14th,⁷⁰ but the damage was already done and Davis was given the coveted senatorial post.⁷¹

The comments of the French press on Jackson's message were copied in the capital newspapers of February 20 and following dates. The first news seemed to indicate that hostilities were certain,⁷² but the speech of the finance minister before the chamber of deputies on the presentation of the bill for the payment of the indemnity gave rise to hopes that an amicable settlement would be reached.⁷³ This hope was heightened by the reflection that the report of the foreign relations committee to the senate had not been received in France when the last accounts were dispatched.⁷⁴

The news of the recall of Serurier created quite a sensation in America.⁷⁵ The *National Intelligencer* admitted that France had acted with more precipitation than had been expected.⁷⁶ Serurier formally announced his recall

⁷⁰ Washington *Globe*, February 17, 1835.

⁷¹ Washington *National Intelligencer*, February 25, 1835; Adams (ed.), *Memoirs*, IX, 207-12 (February 22, 1835).

⁷² Washington *National Intelligencer*, February 23, 1835.

⁷³ Vaughan to Wellington, No. 12, February 25, 1835, F.O. 5, America 300.

⁷⁴ Washington *National Intelligencer*, February 24, 1835.

⁷⁵ Adams (ed.), *Memoirs*, IX, 207 (February 20, 1835).

⁷⁶ Washington *National Intelligencer*, February 21, 1835.

and presented A. J. Y. Pageot as chargé d'affaires on February 23.⁷⁷ Serurier, directed by his government, communicated to the secretary of state a defense of the policies of France. These explanations were the same as those given earlier by Rigny to Livingston.⁷⁸ In the note the following paragraph appeared:

Les plaintes que porte M. le Président contre le prétendu non-accomplissement des engagements pris par le Gouvernement du Roi à la suite du vote du 1er avril, 1834, ne sont pas seulement étrange par l'entière inexactitude des allégations sur lesquelles elles reposent, mais aussi parceque les explications, qu'a reçues à Paris M. Livingston, et celles que le sous-signé a données directement au cabinet de Washington semblaient ne pas laisser même la possibilité d'un malentendu, sur des points aussi délicats.⁷⁹

Forsyth found that the phrase "prétendu non-accomplissement" conveyed the "idea that the Chief Magistrate knows or believes that he is in error, and acting upon this known error seeks to impose it upon Congress and the world as truth." This would be an attack upon the integrity of the chief magistrate, which must be indignantly repelled. Livingston was instructed to secure explanations from the proper authorities.⁸⁰ This supposed reflection upon the president became one of the minor points that

⁷⁷ Serurier to Forsyth, February 23, 1835, in France: Notes to the Department of State, XI. Pageot was the son-in-law of Major Lewis. His wife was a favorite of President Jackson and spent much time in his house. The young son of the French chargé had been named Andrew Jackson and had been christened in the White House.

⁷⁸ See *ante*, 143.

⁷⁹ Serurier to Forsyth, February 23, 1835, in France: Notes to the Department of State, XI.

⁸⁰ Forsyth to Livingston, March 5, 1835, in Instructions to United States Ministers to France, XIV.

had to be adjusted before the resumption of diplomatic relations.

That the relations of the two countries were strained almost to the breaking point may be inferred from the comments of some of the American leaders. James A. Hamilton wrote Jackson, "under a strong conviction that eventually there will be war," offering his service in any capacity.⁸¹ Adams wrote in his *Memoirs* that "if the two countries be saved from war, it seems as if it could only be by a special interposition of Providence."⁸² Judge Joseph Story found "the state of public affairs . . . anything but satisfactory" with the president "exceedingly warm for a war with France." Story felt that the only hope lay in the resistance of the senate.⁸³ Rives thought that the recall of the French minister was "unwarrantably offensive" and added "insult to injury."⁸⁴

The house of representatives determined to give expression to its views on the relations of the two countries. Churchill C. Cambreleng, as chairman of the committee on foreign affairs, brought in a resolution supporting the position of the president. This resolution was amended to read "that, in the opinion of the House, the treaty of the 4th of July, 1831, should be maintained, and its execution insisted on."⁸⁵ In the debate that followed, "all seemed to have concurred, in conjuring the President to preserve

⁸¹ Hamilton to Jackson, February 16, 1835, in Hamilton, *Reminiscences*, 283-84.

⁸² Adams (ed.), *Memoirs*, IX, 217 (March 7, 1835).

⁸³ Joseph Story to Judge Fay, March 2, 1835, in William W. Story (ed.), *Life and Letters of Joseph Story*, 2 vols. (Boston, 1851), II, 192-93.

⁸⁴ Rives to Niles, February 28, 1835, in Nathaniel Niles Papers.

⁸⁵ *Register of Debates*, XI, Pt. II, 1634.

Peace.”⁸⁶ While the temper of the house was undoubtedly pacific, the unanimous vote which was given on the amended resolution indicated that Jackson could expect strong support from that body.

The real expression of the sentiment of congress on the difficulty between the two countries came in the debates on the fortification bill. This bill, which came before the house after Livingston's correspondence indicating the seriousness of the situation had been published, provided that an appropriation of three million dollars be placed in the hands of the president to put the country in a state of defense. The Jackson leaders in the house succeeded in getting the bill passed with a minimum of debate by a vote of 107 to 75.⁸⁷ Leaders in the senate thought that the bill placed too much power in the hands of the executive and, having little confidence in his ability, they determined not to entrust him with such unrestricted power. The defeat of the bill by the senate in the then defenseless condition of the country would no doubt have aroused serious criticism and in the case of hostilities would have brought the reproaches of the nation upon its head. The astute political leaders determined to bring about the defeat of the bill and to throw the odium of rejection on the house of representatives.

In order to accomplish this, the senate delayed consideration of the bill until the closing hours of the session. Then an amendment was tacked on, to which it was not expected the house would agree. This necessitated a conference committee which sat past midnight on March 4. The members of the house continued in session until it

⁸⁶ Vaughan to Wellington, No. 13, March 3, 1835, F.O. 5, America 300.

⁸⁷ *Register of Debates*, XI, Pt. II, 1642.

had been rumored that the senate had adjourned. Many of the members of the lower body then left the hall. About 3:30 A.M., March 5, the bill was finally reported from the conference committee and adopted by the senate, but no quorum could be found in the house and so the bill failed of passage.

The failure of the bill made it obvious that congress in both its branches was not supporting the president. The opposition press found fault with the house,⁸⁸ while the *Globe* and other supporters of the administration considered that the senate had resolved that it would rather "sacrifice the interests of the country and endanger its safety, than increase the moral influence of the man whose strength they considered much more dangerous to their political interests than that of France to the public interests."⁸⁹ During the next session of congress members of each house attempted to lay the blame on the other for leaving the country in a defenseless condition. Webster led the attack in the senate, and John Quincy Adams denounced in no uncertain terms the tactics of the upper body.⁹⁰ The activity of Hugh L. White of Tennessee in opposition to the fortification bill revealed a definite break with the administration which steadily widened.⁹¹

The fact that the sentiment of the nation was becoming more solidified in support of the president may be inferred from the care the senate took to throw from its shoulders, as far as possible, the responsibility for the defeat of the fortification bill. An even more decisive indication of this fact is to be found in the columns of the

⁸⁸ Washington *National Intelligencer*, March 5, 6, 1835.

⁸⁹ Washington *Globe*, March 18, 1835.

⁹⁰ *Register of Debates*, XII, Pt. II, 2263 ff.

⁹¹ Washington *National Intelligencer*, March 14, 1835.

National Intelligencer. That paper warned that the action of congress must not be interpreted "anywhere" as a disposition to submit quietly to the nonexecution of the treaty. Failure on the part of France to act would be followed by legislation by congress.⁹² The increasing intimacy between John Quincy Adams and leaders of the administration forces is another indication that, regardless of personalities, American sentiment was becoming more united on the execution of the treaty.⁹³ The next news from France was to make this unanimity of sentiment more pronounced.

On May 26 news arrived in the United States that the indemnity bill, with the Valazé amendment, had passed the chamber of deputies by an unexpectedly large majority. The rejoicing over the complete "victory of President Jackson's administration" was tempered by the contemplation of the awkward obstacle in the way of the final settlement.⁹⁴ The amendment was generally considered as a "silly condition" accepted by the French ministry as a "sort of salve to the national pride."⁹⁵ That France would get anything or was entitled to anything remotely resembling an apology was not admitted by friend or foe of the administration. The *National Intelligencer* expressed the most consideration for France when it suggested that that portion of the last annual message which affirmed that "such a measure ought not to be considered by France as a menace. Her pride and power are too well known to expect anything from her fears, and preclude the necessity of a declaration, that nothing partaking of

⁹² *Ibid.*, March 4, 1835.

⁹³ Adams (ed.), *Memoirs*, IX, 219 (March 11, 1835).

⁹⁴ *Ibid.*, 238 (May 26, 1835).

⁹⁵ Rives to Van Buren, June 2, 1835, in Van Buren Papers.

the character of intimidation, is intended by us," should be repeated with emphasis in the next annual message and should be accepted by France as a sufficient apology.⁹⁶ The *Globe*, which was in close contact with the White House, said that "France will get no apology—nothing bearing even such a remote resemblance to one, that it can be palmed off upon the world as such by all the vaunting and gasconading of sputtering Frenchmen."⁹⁷ Sir Charles Vaughan wrote Lord Palmerston (Henry J. Temple), British minister of foreign affairs, that "there will be the greatest difficulty, in persuading the former [Jackson] to answer the demand in any shape."⁹⁸

Soon after the arrival of news in the United States of the action of the chamber of deputies, the departure of Livingston from France was announced.⁹⁹ Speculation was rife as to the influence his arrival would have on the affair. In June the American frigate *Constitution*, with the minister aboard, arrived at New York. He was met by crowds at the wharf who gave him a warm reception and to whom he finally made a short address.¹⁰⁰ Livingston continued his journey immediately to Washington. Philip Hone thought that Livingston had returned in a "bad humor" and would infuse some of it in the mind of the weak "old man at the head of the government."¹⁰¹ Vaughan, who had entertained Livingston at a dinner on his arrival in Washington, was sure that his coming had not "produced

⁹⁶ Washington *National Intelligencer*, May 29, 1835.

⁹⁷ Washington *Globe*, May 29, 1835.

⁹⁸ Vaughan to Palmerston, No. 35, June 12, 1835, F.O. 5, America 300.

⁹⁹ New York *Journal of Commerce*, quoted in Washington *Globe*, June 15, 1835.

¹⁰⁰ Hunt, *Life of Edward Livingston*, 415-16; Churchill C. Cambreleng to Van Buren, June 24, 1835, in Van Buren Papers.

¹⁰¹ Tuckerman (ed.), *Diary of Philip Hone*, I, 144.

any change in his [Jackson's] decided repugnance, to making the explanation required of the language of his message." ¹⁰² An unknown correspondent of the French government in Washington gave his superiors an account of an interview with Jackson after Livingston's return. This correspondent believed that Livingston's reports had confirmed President Jackson in his determination to offer no apologies or explanations of any sort. The French officials were informed that serious difficulties were likely to arise even yet over the unhappy affair. ¹⁰³

Livingston had the satisfaction of finding his course generally approved by the press ¹⁰⁴ and officially endorsed by the president. ¹⁰⁵ That part of Livingston's official correspondence which had not been printed was made public at this time "to soothe the feelings of national susceptibility." The most important of these papers was his note to Broglie, dated April 25, which the *National Intelligencer* held to be an "able state paper" placing in a "strong light the views of the executive and ought to be considered by France as a satisfactory explanation of the President's message." ¹⁰⁶ The press was united in its approval of Livingston's course. ¹⁰⁷ In New York and Philadelphia partisan banquets were given in honor of the returned minister. At each of these dinners, after the champagne "had begun to stir up the latent flame of patriotism," Livingston made an

¹⁰² Vaughan to Palmerston, No. 37, June 28, 1835, F.O. 5, America 300.

¹⁰³ Extract of a letter from Washington, June 27, 1835, A.E., États-Unis 90.

¹⁰⁴ *Washington Globe*, June 26, 1835.

¹⁰⁵ Forsyth to Livingston, June 30, 1835, in Instructions to United States Ministers to France, XIV.

¹⁰⁶ *Washington National Intelligencer*, July 3, 1835.

¹⁰⁷ Quotations from the press in *Washington Globe*, July 10, 1835.

address which was received with shouts of "no apology, no explanation," and "hurrah for Jackson."¹⁰⁸

The administration appeared to have practically the unanimous support of the country in its program to force the payment of the indemnity. In spite of this fact there was little apprehension of a rupture.¹⁰⁹ The *National Intelligencer* saw with "unfeigned satisfaction the manifestation of a placable temper at Head-quarters."¹¹⁰ Cambreleng thought that the sentiment in New York was one of "contempt" rather than "anger," with the people ready to follow the president.¹¹¹ In the management of the delicate situation, great reliance was placed in the judicious judgment of Van Buren.¹¹²

The first statement as to the policy the American government proposed to adopt under the new conditions came in the instructions which were prepared for the chargé d'affaires at Paris. In this note the secretary of state emphasized the fact that no further efforts were to be made by Barton to satisfy the French government. He was instructed not even to mention the treaty in his official correspondence with the government to which he was accredited. If any communications were made to him he was to receive them for transference to his home government, but he was to take no action until he had received instructions from the secretary of state.¹¹³

In France the American question was receiving little

¹⁰⁸ New York *American*, July 17, 1835; Tuckerman (ed.), *Diary of Philip Hone*, I, 146; Hunt, *Life of Edward Livingston*, 417.

¹⁰⁹ Vaughan to Palmerston, No. 42, July 4, 1835, F.O. 5, America 300.

¹¹⁰ Washington *National Intelligencer*, July 3, 1835.

¹¹¹ Cambreleng to Van Buren, June 24, 1835, in Van Buren Papers.

¹¹² Vaughan to Palmerston, No. 35, June 12, 1835, F.O. 5, America 300.

¹¹³ Forsyth to Barton, June 28, 1835, in Instructions to United States Ministers to France, XIV.

attention at the hands of the government. After the passage of the bill by the chamber of deputies on April 18, the ministers delayed in bringing the matter before the peers until early June.¹¹⁴ The general political situation in Europe was very serious at the time. The Spanish government was demanding an armed intervention on behalf of the Queen by the governments of France and England.¹¹⁵ In France sentiment was equally divided between those who desired intervention and those who were opposed to it. The northern powers were especially hostile to intervention, and it was generally admitted that in case France should undertake such a move, angry demonstrations would be made by the "northern powers" with probably a second invasion of Belgium by Holland, precipitating a general war.¹¹⁶ The opposition of England to intervention finally determined the French government to take no open action in the matter.¹¹⁷

At about the same time that this policy was being determined upon by France, the bill providing for the execution of the treaty of 1831 was brought before the chamber of peers. That body passed the bill as it came from the chamber of deputies.¹¹⁸

The ministers found that the Valazé amendment offered a real obstacle to the final settlement of the dispute.¹¹⁹

¹¹⁴ Barton to Forsyth, June 6, 1835, in Notes from Ministers to France, XXVII; Paris *Galignani's Messenger*, April 27, 1835.

¹¹⁵ A. W. Ward, G. W. Prothero, and Stanley Leathes (eds.), *Cambridge Modern History*, 12 vols. (Cambridge, 1902-1910), X, 205-43.

¹¹⁶ Thomas P. Barton to Forsyth, May 31, 1835, in Notes from Ministers to France, XXVII.

¹¹⁷ Barton to Forsyth, June 15, 1835, *ibid.*

¹¹⁸ *Archives Parlementaires*, XCVII, 470.

¹¹⁹ Paris *Galignani's Messenger*, July 1, August 18, 1835.

They worked out two methods by which they might overcome the handicap. If possible they hoped to secure some statement from the president in his annual message or otherwise which might be construed to meet the requirements of the law. If they failed to secure this, their hopes rested on the possibility that the successor of Jackson would be of a more "conciliatory disposition."¹²⁰ If the French ministry had been sure that the matter could have been postponed until the next administration without danger of war, they would no doubt have favored the second method. It appeared that they were very much afraid that Jackson would take some "rash step" which would force France to protect its honor.¹²¹ A rupture with the United States at that time must be avoided if possible. Louis Philippe was not sufficiently sure of his throne to risk such a contest. The Spanish situation was still unsettled and Russia was adopting a policy which was definitely opposed by France.

It remained then for the ministry to secure some statement from Jackson which might be taken as a fulfillment of the requirement for an apology. The Duke de Broglie dispatched a note to Pageot, chargé d'affaires at Washington, on June 17, 1835, instructing him to communicate to Forsyth the conditions under which the French government would consider that the terms of the amendment had been complied with.¹²² The French foreign minister

¹²⁰ Barton to Forsyth, August 23, 1835, in Notes from Ministers to France, XXVII; Palmerston to Vaughan, June 27, 1835, F.O. 5, America 299; George W. Erving to Jackson, September 25, 1835, in Bassett (ed.), *Correspondence of Andrew Jackson*, V, 368-70.

¹²¹ *Ibid.*

¹²² A copy of this note was printed in Washington *National Intelligencer*, January 22, 1835.

also sought to enlist the friendly support of England in the controversy. Lord Granville (Granville L. Gower), English ambassador at Paris, reported to Palmerston, who was directing English foreign policy, that the Duke de Broglie had informed him that President Jackson might insert in his annual message some sentence that would satisfy the French law. This information was immediately communicated to Vaughan, who was instructed to transmit it unofficially to the authorities at Washington. The English minister was informed that his government would undertake mediation only if requested in the "most formal manner."¹²³ These instructions were repeated in a confidential dispatch, dated September 6.¹²⁴

The British minister communicated to the secretary of state the interest of his government in the difficulties that had arisen between the United States and France. Vaughan then repeated the suggestion made at Paris. Forsyth expressed his appreciation of England's interest in the affair but affirmed "that no further explanation would be given than that already made." Vaughan reported that "a strange susceptibility has been manifested by the President and people of the United States who seem to be persuaded that to give France any other explanation than that . . . would be humiliating and derogatory to their national honor." This view had received the support not only of

¹²³ Palmerston to Vaughan, No. 1, June 27, 1835, F.O. 5, America 299. This draft is endorsed "highly approved, William." C. K. Webster, "British Mediation between France and the United States in 1834-1836," in *English Historical Review* (London), XLII (1927), 58-78. This article is based upon MSS. in the British, American, and Austrian archives. Webster also had access to some notes taken by a friend on the materials in the French archives.

¹²⁴ Palmerston to Vaughan, No. 6, confidential, September 16, 1835, F.O. 5, America 299.

the party in power, but "it has become a general and popular impulse."¹²⁵

The note of June 17 from Broglie was placed in the hands of Pageot the last week of August. Forsyth was away from Washington at the time, consequently it was September 11 before the French chargé was able to communicate it to the secretary of state.¹²⁶ This note informed the American government that the execution of the treaty now depended upon the explanation "of the true meaning and real purport" of the presidential message of 1834. Broglie offered the documents which accompanied the bill on its passage through the chambers for the consideration of the secretary of state "to show how we consider the respective positions of the two states." The duke then justified the action of the French chambers by a historical exposition of the events. The amendment itself did not "make it the duty of the French government to ask for explanations; it merely supposes they will receive them."

The French foreign minister pointed out the reasons why Livingston's note of January 29,¹²⁷ the views of which were presented again on April 25 with the "expressed approbation" of the president,¹²⁸ could not be accepted as satisfactory explanations. In the first place, he reminded the secretary of state that Livingston's note of January 29 remained on April 18, the date of the passage of the amendment by the chamber of deputies, the expression of his personal sentiments. Furthermore, the publication of Livingston's correspondence by the United

¹²⁵ Vaughan to Palmerston, No. 48, August 23, 1835, F.O. 5, America 301.

¹²⁶ Vaughan to Palmerston, No. 52, September 12, 1835, *ibid.*

¹²⁷ See *ante*, 148-150.

¹²⁸ See *ante*, 153-154.

States government aroused such resentment against him in France, that it was out of the power of the ministry to use a document bearing "his signature to repel . . . the amendment under consideration."

Broglie admitted that Livingston was correct in thinking that the objections of the French government were confined to two points; first, "the message impeaches the good faith of his majesty's government," and second, "it contains a threat to secure the execution of the treaty by fear of reprisals." The duke agreed that an explanation of the message "phrase by phrase" would reveal none, which would not bear an interpretation more or less plausible. Yet he felt that when

the whole succession of facts is taken into view, . . . the care which seems to have been taken to present them in an unfavorable light, without making allowance for circumstances, which explained them; . . . when we see at the end of this uninterrupted series of allegations which have the appearance of wrongs, . . . the unexpected proposition, the extreme proposition . . . to seize upon French property, it is impossible at first view, it is even difficult after reflection, to escape the thought that all this part of the message had been written for the double purpose stated above.

The foreign minister expressed the hope that such a thought was "not so." To banish entirely such an idea, the president would not find it difficult to declare that it was not his intention "to assume with regard to France a menacing attitude." The duke even hinted a declaration that Livingston's notes containing such an avowal would be deemed acceptable by the French government.¹²⁹

¹²⁹ Broglie to Pageot, June 17, 1835, published in *Washington National Intelligencer*, January 22, 1836.

The conciliatory tone of the French note was admitted by representatives of the American and British governments. Forsyth acknowledged the moderation which the French government manifested in the note, but he observed that "disguise it as you will any step taken by the United States, beyond what has already passed in the way of explanation, must imply a certain concession which the President and people of the United States are resolved not to make."¹³⁰ Pageot permitted Vaughan to read the note. The British minister expressed himself as highly pleased with the moderation manifested by the French government. He was convinced that a "formal repetition of what has already been said would be sufficient to satisfy the law." Vaughan felt that the United States would put itself into the wrong by acting upon the mistaken notion that they ought to be more tenacious "of their honor."¹³¹

On September 14, three days after the interview with Pageot, the secretary of state sent out final instructions to Barton. These instructions indicated no change of the intention not to offer any further explanations. The chargé was to inquire in the most considerate terms as to the intentions of the government with regard to the execution of the treaty. If a definite date was named on which payment would be made, Barton was to remain in France; otherwise, he was to close the legation and return home. The president was anxious that these instructions be complied with early enough for the results to be known in Washington before it was necessary to send the annual

¹³⁰ Vaughan to Palmerston, No. 52, September 12, 1835, F.O. 5, America 301.

¹³¹ *Ibid.*

message to congress.¹³² An interesting point to be noted about these instructions is that they conform to a draft written by Jackson and sent to the state department.¹³³ No reply was received from Barton before the convening of congress.

The British government, made aware of the seriousness of the situation by the dispatches of their minister, had time to urge again the acceptance of the mode of settlement which they had first proposed. In the latter part of October the confidential instructions of Palmerston to Vaughan of September 16, 1835, reached Charles Bankhead who was in charge of the British legation. These instructions ordered him to communicate unofficially to the American government that Lord Granville had been informed in Paris that a sentence in the presidential message, "while it repeated that which the American government has previously said, would not be derogatory to the dignity of the United States, might on the other hand be taken by the French government as a sufficient ground upon which to rest their final execution of the treaty."¹³⁴ When Bankhead communicated these instructions to Forsyth he received only "slender hopes" for the adoption of such a proceeding. Forsyth admitted that the French question would occupy a prominent place in the presidential message, but he was not prepared at that time to say just what the tenor of it would be.¹³⁵ A few days later

¹³² Forsyth to Barton, September 14, 1835, in *Instructions to the United States Ministers to France*, XIV.

¹³³ Memorandum to State Department, returned by State Department, September 14, 1835, in *Jackson Papers*.

¹³⁴ Palmerston to Vaughan, No. 6, confidential, September 16, 1835, F.O. 5, *America* 299.

¹³⁵ Charles Bankhead to Palmerston, No. 2, October 29, 1835, F.O. 5, *America* 301.

in a conversation with the president, Bankhead communicated the same information. Jackson expressed a desire to comply, but felt that he could not do so without compromising the honor of his country.¹³⁶

Pageot, in order to make known to congress and the American people the pacific nature of the French government, tried to place in the hands of Forsyth a copy of Duke de Broglie's note of June 17. If Forsyth had received it he would have been compelled to submit the note with the other correspondence to congress. This, Pageot evidently thought, would place the administration in an unfavorable light before the country. The secretary of state refused to accept the copy of the note, thus blocking the French chargé's purpose.¹³⁷

The composition of the presidential message showed a great deal of care. Livingston had come to Washington to aid in its preparation.¹³⁸ Van Buren and Forsyth also played an important part. The completed work probably represented the efforts of these three men and the president. The message presented, in a moderate and respectful but firm tone, the policy pursued by the United States. The responsibility for the strained relations was placed squarely on the shoulders of the government of France. In speaking of the last annual message, Jackson stated "that the conception that it was my intention to menace or insult the Government of France is as unfounded as the attempt to extort from the fears of that nation what

¹³⁶ Bankhead to Palmerston, No. 5, November 5, 1835, *ibid.*

¹³⁷ Pageot to Forsyth, December 1, 1835, in France: Notes to the Department of State, XI; Forsyth to Pageot, December 3, 1835, in Notes to Foreign Legations from Department of State, VI.

¹³⁸ Bankhead to Palmerston, No. 15, November 28, 1835, F.O. 5, America 301.

her sense of justice may deny would be vain and ridiculous." The president defended his communication as one required by the constitution, which no nation had the right to question. He pointed out that on three other occasions France had found fault with presidential messages but that the only explanation offered her had been that the messages were communications from one branch of the American government to another and as such could not be questioned by the French government. The executive referred to Livingston's notes of January 29 and April 25 as containing such explanations as could be given by the United States. These notes had received his endorsement, and his approval in the case of the earlier had been communicated to the French government. The president, eager to bring the affair to a close, reported that he had instructed Barton to inquire of the French government their final determination in regard to the execution of the treaty and in case of its refusal to pay the installments due, to return to the United States. He had hoped to have the report of the chargé in time to send it to congress, but it had been delayed. He promised a special message as soon as the dispatches reached him.

This part of the message ended with an appeal for the support of his countrymen. Jackson affirmed that:

In any event, however, the principle involved in the new aspect which has been given to the controversy is so vitally important to the independent administration of the Government that it can neither be surrendered nor compromised without national degradation. I hope it is unnecessary for me to say that such a sacrifice will not be made through any agency of mine. The honor of my country shall never be stained by an apology from me for the statement of truth

and the performance of duty; nor can I give any explanation of my official acts except such as is due to integrity and justice and consistent with the principles on which our institutions have been framed.¹³⁹

The British chargé characterized the message "as a document inculcating peace, in case of an unsuccessful termination of this difficulty, or as one by which, in a possible recurrence to hostilities, he might be exonerated for having indirectly produced such a result." Pageot did not consider that the message offered any improvement of the relations between the two countries. The chargé thought that the insinuations as to the good faith of the king would not be received kindly by his government. He was so sure that the dissatisfaction of France would be increased that he refused to attend the dinner given to members of the diplomatic corps by the president.¹⁴⁰

Among the American public the message met with very nearly unanimous approval. The *New York Herald*, established the previous year under the editorship of James Gordon Bennett, had expressed the hope before the delivery of the message that the administration would "assume the Lion's part. We are half for war." When the document came to the hands of the editor, he expressed himself highly pleased with it and said that "all men of all parties can meet on common ground and unite openly with the President."¹⁴¹ The press was so nearly unanimous in support of the administration that the *National*

¹³⁹ Richardson (ed.), *Messages and Papers of the Presidents*, III, 152-60.

¹⁴⁰ Bankhead to Palmerston, No. 25, December 13, 1835, F.O. 5, America 301.

¹⁴¹ *New York Herald*, December 10, 1835.

Intelligencer was forced to admit that it stood alone in the opposition.¹⁴² That paper had characterized the message as "artfully conceived to fan the sparks that kindle war."¹⁴³ The message had evidently accomplished all that the framers could hope for in uniting the American people in support of the administration. It remained to be seen what the effect would be on foreign governments and particularly on that of France.

¹⁴² Washington *National Intelligencer*, December 15, 1835.

¹⁴³ *Ibid.*, December 10, 1835.

CHAPTER VII

PEACE WITH HONOR

THE Duke de Broglie had already received from Pageot an account of the unfavorable outcome of his interview of September 11 with the secretary of state, when the final instructions for Barton arrived in Paris.¹ The chargé obtained an interview with the duke for October 20. At the appointed interview Barton inquired what the intentions of the French government were in relation to the funds which had been voted. The duke replied that the policy his government intended to pursue had been outlined in the note of June 17 to Pageot, which had been communicated to Forsyth on September 11. In reply to the question as to whether the French government would "name any fixed and determinate period at which it would be disposed to pay the twenty-five millions," Broglie replied, "tomorrow, to-day, immediately, if the Government of the United States is ready on its part to declare to us, by addressing its claim to us officially in writing, that it regrets the misunderstanding which has arisen between the two countries, that this misunderstanding is founded upon a mistake, and that it never entered into its intention to call in question the good faith of the French government nor to take a menacing atti-

¹ Pageot to Broglie, September 5, 12, 20, 1835, A.E., États-Unis 90. The instructions to Pageot were dated June 17 but it was September 5 before any communication of the contents was made to the department of state.

tude toward France.”² This answer was deemed unsatisfactory by Barton and was followed by his withdrawal from Paris.

The demand of the American chargé for his passports was rather embarrassing to the French government. It was felt that in the end payment would be made without any warlike demonstrations, but the cabinet believed that it was necessary to make preparations to meet any emergency. Concentration of French forces on the west coast and the strengthening of the defenses of the West India colonies and of those in the Balearic Islands were undertaken. These added expenses would not be welcomed by an economical chamber of deputies.³

The English newspapers were carefully following the controversy between France and the United States. Most of them maintained a neutral attitude. The *London Globe*, which often carried “inspired” articles, admitted that General Jackson’s message had quickened the recognition of the claims by the French chambers. This newspaper thought that since the president had gained this advantage he “would realize it by soothing, after stimulating the honour of France. A wrong-headed and obstinate man would follow the shadow and drop the substance.”⁴

The government of Great Britain had manifested an interest in the affair for some time. Its representatives in France and in the United States had kept it informed. This interest had been shown by the willingness with which it

² Barton to Broglie, October 24, 1835; Broglie to Barton, October 26, 1835, in *Notes from Ministers to France*, XXVII.

³ Paris *Galignani's Messenger*, November 17, 23, December 8, 1835; Vail to Forsyth, December 5, 1835, in *Dispatches from England*, XLIII.

⁴ *London Globe*, quoted in Paris *Galignani's Messenger*, November 24, 1835.

transmitted from Paris to Washington statements originating in high quarters that might tend to bring about an amicable adjustment of the affair.⁵ The English foreign minister had affirmed, however, that he would not offer mediation unless asked for in "the most formal manner."⁶ The reports which the British government had received from Vaughan and later from Bankhead indicated that there was little hope that the presidential message would contain any passage that would be considered by the French government as a satisfactory explanation of the offensive message of 1834.⁷ Bankhead had written on November 13 that if the treatment accorded Barton was unsatisfactory, the President's message would throw new difficulties in the way of a final settlement.⁸ This information probably caused the British government to attach a great deal of significance to Barton's withdrawal from Paris.

There were several reasons why England desired to prevent a rupture between the United States and France. Lord Charles C. F. Greville wrote in his memoirs that a rupture would result in the blockade of American ports by France. This would cut off the supply of cotton which would result in "multitudes being thrown out of employment, and incalculable distress would follow."⁹ Another motive which was no doubt important in establishing the desire of England for peace was the action of Russia. The

⁵ See *ante*, 166, 170-171.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ Bankhead to Palmerston, No. 10, November 13, 1835, F.O. 5, America 301.

⁹ Henry Reeve (ed.), *The Greville Memoirs: A Journal of the Reigns of King George IV. and King William IV.*, 3 vols. (London, 1874), III, 322-23.

interests of England and Russia had gradually diverged after the Napoleonic wars, while England and France had tended to come closer together. Russia had shown through the summer months an increasing eagerness to pursue her favorite pastime of territorial aggrandizement at the expense of Turkey.¹⁰

The anxiety with which the warlike preparations of Russia were viewed in the west was increased by a bellicose speech which the czar made in Warsaw in the fall. This address, which was printed in the Paris and London papers of the middle of November, immediately became the object of a bitter attack by some of the newspapers. The *Journal des Débats*, a ministerial journal, was especially harsh in its attacks. The Russian ambassador at Paris resented the tone of this journal and appealed to the king. Louis Philippe appeared unable to check the ministerial organ, but he did succeed in preventing the *Moniteur* and the *Journal de Paris* from inserting inflammatory articles in their columns.¹¹ Notwithstanding these efforts of the king to smooth things over, both the Paris and the London press considered war with Russia almost a certainty.¹² The Russian ambassador at Paris did not know what the outcome of the unsettled state of Europe would be. It appeared that he considered war a probability.¹³

¹⁰ London *Times* and London *Standard*, quoted in Paris *Galignani's Messenger*, June 29, 30, 1835.

¹¹ Paris *Galignani's Messenger*, November 16, 1835; Princess Lieven to Earl Grey, November 16, 1835, in Guy Le Strange (ed. and trans.), *Correspondence of Princess Lieven and Earl Grey*, 3 vols. (London, 1890), III, 164-65.

¹² Paris *Galignani's Messenger*, November 16, 1835.

¹³ Princess Lieven to Earl Grey, November 16, 1835, in Strange (ed.), *Correspondence of Princess Lieven and Earl Grey*, III, 164-65.

The London *Sun* considered a war with Russia as a "moral certainty." This paper thought that if France and England were involved in a war with Russia, a rupture between France and the United States would embarrass England and probably prevent her from remaining neutral.¹⁴ The London *Courier* admitted that England might be forced to assume a hostile attitude toward Russia. It hoped that such a contingency would not arise, but a war would come "upon us with increased annoyance if France, the great power which is most firmly united with us in opposing Russia, were then to be engaged in a war with America." It was the opinion of this organ that such considerations made it advisable for England to offer her mediation in the squabble over the "piece of etiquette" between the two countries.¹⁵

The confused situation was further complicated by the spread of rumors that an alliance existed between Russia and the United States.¹⁶ Vail took notice of the rumors; and, while he knew that the governments of England and France did not credit the existence of such an alliance, he thought that "such a coloring" could be given "to the objects of Mr. [William] Wilkins' mission to Russia as to throw some semblance of truth upon the rumors which are so industriously propagated."¹⁷ About the same time D'Avezac wrote from the Netherlands that France was not prepared for war with the United States, because she

¹⁴ London *Sun*, quoted in Paris *Galvani's Messenger*, November 24, 1835.

¹⁵ London *Courier*, December 11, 1835, quoted in Paris *Galvani's Messenger*, December 14, 1835.

¹⁶ Paris *Galvani's Messenger*, November 23, 30, 1835.

¹⁷ Vail to Forsyth, December 5, 1835, in *Dispatches from England*, XLIII.

was not sure of the intentions of Russia in the East.¹⁸

The recall of Barton and the Russian situation resulted in a decline on the bourse, notwithstanding the circulation of a rumor that British mediation in the dispute had been offered and accepted.¹⁹ Insurance rates also rose rapidly and resulted in much shipping being shifted from French to English bottoms.²⁰ This shifting of trade from French to English ships not only disposed French commercial interests to keep the peace but it also affected powerfully the British financial center. A large portion of the existing insurance had been written by English companies. In case of a rupture this capital, far exceeding the amount of the indemnity, would be exposed to the risks of war. This factor increased the repugnance with which Great Britain would have witnessed the interruption of a general peace.²¹

The journals of Paris and London had been full of rumors that British mediation in the Franco-American dispute had been offered or would be offered.²² The British press desired that the hands of their ally should be free in case of a rupture with Russia.²³ The French press saw in the mediation of England a means of escaping from an embarrassing situation.²⁴ It seems that England desired to undertake mediation but was not disposed to offer it unless

¹⁸ D'Avezac to Forsyth, December 8, 1835, in *Dispatches from Netherlands*, XI.

¹⁹ Paris *Galvani's Messenger*, December 10, 1835.

²⁰ Vail to Forsyth, December 24, 1835, in *Dispatches from England*, XLIII.

²¹ *Ibid.*

²² Paris *Galvani's Messenger*, November 19, 1835.

²³ London *Courier*, December 11, 1835, quoted in Paris *Galvani's Messenger*, December 14, 1835.

²⁴ Paris *Galvani's Messenger*, December 10, 1835.

it was "most formally asked for."²⁵ The Duke de Broglie, who was head of the council of ministers in France, as well as foreign minister, was not disposed to request or to accept British mediation in the dispute.²⁶ The problem of the French leaders was to secure British mediation without formally requesting it. Thiers, who had become an important member of the council, suggested that English mediation be sought as the most satisfactory way out of the difficulty. At the moment this suggestion was looked upon unfavorably by the council.

Six weeks later conditions had become more discouraging. The withdrawal of Barton and news from America did not encourage the hope of an ultimate peaceable settlement of the affair. The expenditures in which France was being involved were heavy and would invite much criticism of the council from the chambers. The threatening attitude of Russia made it inadvisable for France to become involved in an American war. Public opinion in France was demanding an adjustment of the trouble with the United States. It was under these conditions that Thiers broached his plan of English mediation a second time. It seems that the king and every member of the council except Broglie endorsed the proposal. It was deemed too humiliating to approach England directly with the request that mediation be undertaken. It was finally determined that the best way to suggest to England that its mediation would be welcomed would be through Leopold, king of the Belgians, son-in-law of the king of France and close friend of Palmerston.

²⁵ Palmerston to Vaughan, June 27, 1835, No. 1, F.O. 5, America 299.

²⁶ Paris *Galignani's Messenger*, December 11, 1835; Eurydice S. Dosne, *Mémoires de Madame Dosne, L'Egerie de M. Thiers*, 2 vols. (Paris, 1928), I, 80-85.

Before the letter to Leopold was sent, the French ministry received from the English cabinet a proposal for an offensive and defensive alliance against Russia. At the council meeting called to consider this proposal, the king and all members of the cabinet, with the exception of Thiers, appeared to be very anxious to accede to English wishes. Thiers pointed out to the French leaders that this alliance would be solely in the interest of England. He observed that it was British commerce and British possessions in Asia which were threatened and which that state desired France's aid in defending. The members of the council were reminded that in case of war France would be in the exposed position. He was sure that a war between Russia and England over the oriental question was inevitable, and proposed, therefore, that France enter into no alliance with either state but use the opportunity offered by such a struggle to strengthen the French position. Thiers saw an opportunity, however, to profit by the offer. He said that France should reply that the American question was in such a state that it would be impossible to enter into any engagements until it was decided. This would induce England to offer mediation without necessitating the humiliation of a request for it by France. The French cabinet was immediately won over to Thiers' viewpoint and his suggestions were adopted.

The notes were so timed that the hint France dropped through Leopold to Palmerston reached England just before the reply of the French cabinet to the proposal of England for an offensive and defensive alliance against Russia. The result was that an immediate inquiry was made through the French minister stationed at London as to whether France would accept British mediation. When

this reply was received from England, the French cabinet, still under the leadership of Thiers, replied that they would accept British mediation provided England would offer it publicly and send out a public vessel and a special agent. The French thought that public action would make it impossible for the United States to reject mediation without incurring the odium of a break, and thus a peaceable settlement of the affair would be assured.²⁷

Aaron Vail, the American chargé, had not been able to get from the English government any confirmation of the rumors that mediation had been offered. A member of the English cabinet told him that France desired England to undertake mediation, but gave him no other information.²⁸ The American chargé felt that no step would be taken until after the arrival of the president's message.²⁹

But Vail's supposition was incorrect. The English government sent out a public vessel on December 21 bearing dispatches to the chargé in Washington, instructing him to offer the mediation of his government in the dispute.³⁰ The offer was officially announced to the French government by Lord Granville on the twenty-fifth and accepted by them on December 27. Vail was invited to a conference with Lord Palmerston on the twenty-ninth of the month and informed that dispatches had already been sent to Bankhead to offer to the government of the United States the friendly mediation of Great Britain. In his conversation with Palmerston, Vail got the impression that

²⁷ Dosne, *Mémoires de Madame Dosne*, I, 84.

²⁸ Vail to Forsyth, December 14, 1835, in *Dispatches from England*, XLIII.

²⁹ Vail to Van Buren, December 22, 1835, in *Van Buren Papers*.

³⁰ Palmerston to Bankhead, Nos. 6, 7, 8, 9, 10, 11, December 21, 1835, F.O. 5, America 299.

the means England had determined to use to bring about a satisfactory adjustment of the controversy, if the proffered mediation were accepted, was to secure an official confirmation from the United States of Livingston's note of April 25. The British foreign minister seemed to think that the note contained all of the explanations necessary, and that France had not given the "proper degree of attention" to it.³¹

Vail thought that the British offer of mediation was made in the "best spirit; and is but one more proof added to those I have already witnessed of the desire of Great Britain that the general peace should not be interrupted from this source." He was sure that if the advances of England proved acceptable to the United States there would be "no fear of their not being so by France." He felt sure, also, that the idea of mediation had originated with France.³² This impression was strengthened in an interview with Palmerston which occurred after France had accepted the president's message of 1835 as offering a satisfactory explanation of the objectionable features of that of 1834. The foreign minister's explanations confirmed Vail in his belief that mediation had been undertaken with reluctance and "such, at least, is my conviction—at the suggestion of France, herself." Vail believed that Downing Street thought that the "obliging disposition" of the British government had been taken advantage of and made "subservient to the manoeuvres of the French Cabinet."³³

The French ministry accepted the mediation of Great

³¹ Vail to Forsyth, December 30, 1835, in *Dispatches from England*, XLIII.

³² *Ibid.*

³³ Vail to Forsyth, January 6, 1836, *ibid.*

Britain with a great deal of gratification. Before the offer came, the French press had expressed itself favorably toward British mediation. The only objection offered by the newspapers to the prompt acceptance of Britain's offer by the cabinet was that the government should have ascertained before accepting it whether or not the United States would adopt a similar course.³⁴ The announcement of the mediation resulted in an immediate rise in prices on the bourse.³⁵

After the passage of the Valazé amendment, France and England had centered their hopes on securing some passage in the annual message of the president that would permit the French ministry to announce the compliance of the American government with the provisions of the amendment and thus secure the final execution of the treaty.³⁶ This hope had been virtually destroyed by the coolness with which the secretary of state and the president had met these suggestions.³⁷ Nevertheless the arrival of the message, "the effect of which they appear to consider as decisive of the questions of peace or war," was awaited in both capitals with an intense anxiety.³⁸

The presidential message of 1835 was received in London on the evening of December 29.³⁹ A very prominent place was given to it in all of the newspapers of the next three days. The *Sun* found the tone of the message on

³⁴ Paris *Le Quotidienne* and *Courrier Français*, quoted in Paris *Galignani's Messenger*, December 29, 1835.

³⁵ *Ibid.*

³⁶ Bankhead to Palmerston, No. 2, October 29, 1835, F.O. 5, America 301.

³⁷ Bankhead to Palmerston, No. 5, November 5, 1835, *ibid.*

³⁸ Vail to Forsyth, December 14, 1835, in Dispatches from England, XLIII.

³⁹ Vail to Forsyth, December 30, 1835, *ibid.*

which "the peace of two worlds" was presumed to hang, "firm but peaceable." It thought that the refusal to give an explanation of the words of the last message was expressed in language so respectful that France ought to be satisfied with it. The *Times* agreed that "the language of the President is calm, firm and strong; but such as certainly leaves a very reasonable hope of peace." This paper was inclined to think that the responsibility for final adjustment rested with France. The *Standard* found that "in more than one instance, too, General Jackson solemnly asserts that in that message, at which offence was taken, he had no intention whatever to menace the French people, or to wound the pride of France. Now, if France is just and rational, this part of the message affords all the apology which she can require." A similar tone was manifested in the other papers of the British capital.⁴⁰

The message arrived in Paris on the last day of December and was published on January 1. The *National* said that although the president "declares that he should be wanting in his constitutional duties if he allowed any explanations to be given, yet indirectly he withdraws all the menacing intentions which are attributed to him. All that was demanded was a disavowal of his thoughts; this he gives several times over, and in a manner which ought to satisfy the supporters of the Valazé amendment." The *Temps* looked upon the president's message not only as pacific, but as giving full "satisfaction." After cogitating fully over the message and noting the drift of public opinion, the *Journal des Débats* on January 3 offered its readers a long article on the subject. Although not all of the

⁴⁰ Paris *Galvani's Messenger*, January 1, 2, 1836. Quotations from the British papers may also be found in the Washington papers of February 13, 1836.

observations made were friendly toward the United States, the article closed with the statement that "now it appears to us that this explicit, appropriate, and undeniable reparation [demanded by the Valazé amendment] is contained in the message which had just been received."⁴¹ The close relationship existing between this paper and the ministry offered the promise that this would be the official attitude toward the message.

It is very likely that a note from Palmerston, dated January 1 and delivered to the French minister of foreign affairs on January 2, had considerable influence in shaping the policy of the French ministry. The British minister declared that "His Majesty's Govt. have seen with great pleasure in the Message of the President of the United States, Those Disclaimers of any Intention to Threaten France, or to cast an Imputation upon her good Faith, the Insertion of which in this Message, Mr. Bankhead was instructed to suggest, in consequence of a Communication made through your Excellency by the French Govt."⁴² This attitude of the English government would certainly encourage the acceptance of the message as offering the explanations demanded by the French government.

The American consul at Havre wrote Forsyth that his impression, formed from the reception of the president's message, was that the French government would pay the money immediately, without waiting for the mediation of England.⁴³ This impression proved to be correct. The king's ministry must have decided to accept the message as satisfying in full the stipulations of the Valazé amend-

⁴¹ Paris *Galignani's Messenger*, January 1, 2, 3, 4, 1836.

⁴² Palmerston to Granville (Leveson Gower), January 1, 1836, A.E., États-Unis 91.

⁴³ Beasley to Forsyth, January 2, 1836, in Consular Letters, Havre, III.

ment on January 3 or early on January 4, for Lord Palmerston was able to announce the fact to Vail on the evening of January 5. In this conference, Vail was informed by Palmerston that the message had impressed him as being all "that could possibly be expected by the French Government in satisfaction of their demands," and that he had instructed Lord Granville "to recommend its acceptance and an immediate settlement of the difference." Palmerston had ascertained on his return to London that the same sentiments had been entertained by Sebastiani, French ambassador at London, who had forwarded to his government with a copy of the president's message, a note advising this course.

The Duke de Broglie's reply to the notes of Palmerston and Sebastiani had just been received. In his answer the duke stated that "if the explanations offered in" Livingston's note of April 29 had not been satisfactory it was

because the general tone which pervaded it was found to bear a character tending to neutralize the few conciliatory sentences it contained:—that the doctrine set up in that document, that a communication from the President to congress could not be taken cognizance of by a foreign Government, had, from the manner in which it was argued in the Message been relieved of the objections formerly attaching to it; and that the exception taken to the offensive terms in the Message of 1834 being satisfactorily done away by the language of that of 1835, the King in Council, considering French honor satisfied, had resolved that the execution of the treaty of 1831 should no longer be delayed.⁴⁴

It seems that Broglie had not found the message satisfactory, but desired to wait for the arrival of the special mes-

⁴⁴ Vail to Forsyth, January 6, 1836, in *Dispatches from England*, XLIII.

sage which Jackson had promised to send to congress on the arrival of Barton's dispatches. However, the king and the other members of the council were anxious to bring the difficulty to an end, and thought this a satisfactory way out of their troubles. Broglie was forced to yield.⁴⁵

Bankhead was immediately instructed to state to the American government that France had found the message of the president satisfactory and that it was ready to make the payments due under the terms of the treaty. The chargé was also to inform the secretary of state that France had expressed its willingness to renew diplomatic relations.⁴⁶ Bankhead had written Palmerston on December 13 that on Barton's return the president would address a second message to congress which would probably recommend the same measures as the one of 1834. He thought that this congress would be much more disposed to follow the executive, as the Jackson party was much stronger. This letter was received by the foreign minister on January 13. It was evident that if such a message were sent, renewed obstacles would be thrown in the way of final settlement. In order to prevent a renewal of the controversy, Bankhead was instructed on January 18 to demand a disavowal by the American government of any language "that would reopen the question."⁴⁷

In America, after the delivery and comment on the presidential message of 1835, there was a lull in the discussion while the return of Barton and information as to the effect of the presidential message on France was

⁴⁵ Webster, "British Mediation between France and the United States in 1834-1836," in *English Historical Review*, XLII, 74.

⁴⁶ Palmerston to Bankhead, No. 1, January 6, 1836, F.O. 5, America 306.

⁴⁷ Palmerston to Bankhead, No. 2, January 18, 1836, *ibid.*

awaited. The unanimity with which the presidential message had been received was marred by a controversy which arose between the *Globe* and *National Intelligencer* and was later taken up by other papers. The *Globe* carried an editorial on December 13 in which it accused the opposition press and congress of making the message of 1834 appear offensive to France. It asserted that "we know that the first Minister of France has himself expressly admitted that, taking each separate member of the message, and subjecting it to scrutiny, there is nothing in any portion of it to justify the offensive sense in which it has been interpreted."⁴⁸

The *National Intelligencer*, probably inspired by the French mission, accused the *Globe* of getting this from an official source and demanded that the people be put in possession of all important papers as well as of the less important documents.⁴⁹ The *Globe* replied that the passage quoted came from a letter which Broglie had sent to his correspondent in that city, but that the letter was not in the possession of any department of the government. The controversy was continued in succeeding issues of the papers.

Bankhead thought that the *Globe* relied upon General Simon Bernard for its assertion that "the distortion of the Presidential message of last year by the opposition press, forced the French Government to view it in an offensive light." The British chargé was also able to find out from Pageot that the paragraph quoted was "an almost exact translation of that part of Broglie's letter." The French

⁴⁸ Washington *Globe*, December 13, 1835.

⁴⁹ Washington *National Intelligencer*, December 14, 1835.

chargé rejoiced that so much of the letter of June 17 had been made public and was eager to get some senator to ask for the letter and the correspondence regarding it, for he thought the government had indirectly suppressed it. Pageot had shown the letter to Henry Clay and other influential citizens.⁵⁰

Near the end of December an article appeared in the *New York Times*, an administration paper, regarding the letter which had caused so much debate. The writer observed that

there can be no good reason why the public should be left in the dark as to that letter, and liable to any imposition which the ill disposed may choose to practice. (1) The letter was not addressed to our Government, nor to any member of it; *it was a Letter to a member of the French Legation, which he was directed to read to Mr. Forsyth, who consented to hear it and did so.* (2) No action was had upon it, for several reasons: our cabinet can officially know nothing about the private correspondence of foreign diplomatic agents; even their acceptance of a copy could not have changed the character of this as a private letter to others which they could not recognize, receive, nor publish. (3) Besides, there was nothing in the letter to alter the state of the question; it might be eloquent with friendly professions, but there was no relinquishment of the demand for explanation which France makes ever the condition of payment; and as that condition is inadmissible, (4) the letter amounted to nothing; It required no action, and none was had. The charge that it was "suppressed" by the Government is absurd. It was not theirs, to be either published or suppressed. Was the President to communicate with his message copies of M. Pageot's private letters? Was he to act

⁵⁰ Bankhead to Palmerston, No. 27, December 21, 1835, F.O. 5, America 301; Pageot to Broglie, October 3, 1835, A.E., États-Unis 90.

upon or notice such a letter, the very object of which was to induce the required explanations? Certainly the course pursued in regard to it was the only proper one.

The *National Intelligencer* saw in this article the answer to its demand for the suppressed letter. The editor thought that it was obvious that the article originated at the state department. He thought that a conspiracy existed on the part of the executive to prevent congress from getting all of the information.⁵¹

The controversy over the letter had now reached the point where Clay felt that he could take up the demand for it with propriety. He therefore introduced a resolution in the senate, which was passed on January 12, requesting the president to transmit to congress a copy of the letter if such a document existed, or any information in his possession which might throw light on the controversy.⁵² Before this request could be complied with, the arrival of Barton shifted the attention of the country to the promised presidential message.

Dispatches from Barton announcing his withdrawal from France had been received in the United States early in January. This news had immediately been followed by a demand on the part of Pageot, as instructed by his government, for his passports.⁵³ Before making the final communication in regard to the affair to congress, the executive determined to await the arrival of Barton, and get from him a direct account of conditions in France. Barton arrived in New York on January 12, and in Washington

⁵¹ Washington *National Intelligencer*, January 7, 1836.

⁵² *Register of Debates*, XII, Pt. I, 104.

⁵³ Forsyth to Pageot, January 2, 1836, in Notes to Foreign Legations from Department of State, VI.

two days later. Livingston met Barton in the capital and accompanied him on his way to report to the president. An account of succeeding events as given by Barton follows:

On the way thither [to the White House] they were joined by Mr. Van Buren and Mr. Forsyth, both of whom were embarrassed and anxious beyond their power to conceal.

"Well, sir," asked the Secretary of State, "what are you going to tell the President?"

"I am going to tell him the whole truth, as I understand it," replied Mr. Barton.

The Chargé perceived a certain constraint and agitation in the group. He stopped near the steps of the White House, and asked,

"Gentlemen, do you want oil poured upon the flames, or water?"

"Oh, WATER, by all means!" exclaimed the company in chorus.

"That," said Mr. Barton, "will be the effect of the little that I have to say."

They entered the presidential sanctum and were soon joined by its irascible master.

"So, sir," said the General to Mr. Barton, "you have got here at last, have you!"

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"Tell me, sir, do the French mean to pay that money?"

"General Jackson," was the reply, "I am sorry to inform you that they do not? [sic]"

The President rose from his chair, and, turning to the group of anxious officials, exclaimed,

"*There*, gentlemen! What have I told you, all along?"

He strode up and down the room several times in a state of extreme excitement. It was too evident to the gentlemen present that Mr. Barton's communication had not produced upon the President's mind the effect of water upon fire.

"What do they say about it, sir?" suddenly demanded the President. "What excuse do they give?"

"General," said Mr. Barton, "I am exceedingly desirous to make you acquainted with the state of affairs in France, as far as I myself understand it; but to do this effectually I must beg to be allowed to tell my story in my own way."

"Right sir," said the President, seizing a chair and sitting down in it with emphasis. "Go on, sir."

"I verily believe, General," began Mr. Barton, "that down to a recent period, the French Government was trifling with us."

Up sprang the President again, at these words.

"Do you hear that, gentlemen? *Trifling with us!* My very words. I have always said so."

The President resumed his seat, and Mr. Barton his explanation.

"I mean by trifling with us, that they thought the treaty a matter of no great importance, and one which was not pressing, and would not be pressed by the United States. It could be attended to this year, or next year—it was of small consequence which."

The ex-Chargé proceeded to say, that the popular opposition to the payment of the indemnity had risen to such a height in France, that any ministry that should pay it before the President had apologized would, not only lose their places, but subject themselves to impeachment. There was no man in France who would dare to encounter the odium of attempting it. The king would endanger his throne if he should give it his sanction. France was in a kind of frenzy on the subject, and no considerations addressed to its reason or its prudence had the slightest weight. The king, the ministry, the capitalists, and all reflecting persons sincerely desired to avoid a collision with the United States, from which France could gain nothing that she desired to gain. But the people were mad; and no one could predict how far the government might be compelled to yield to their fury.

This was the substance of Mr. Barton's communication to

the President, and it had the effect desired of allaying the irritation of his mind. . . .⁵⁴

The preparation of the special message to be delivered to congress had already been begun before Barton's arrival. Jackson himself had prepared a draft and had submitted it to Livingston for his examination. In his reply, Livingston reminded the president of his attachment to him for a period of over twenty years and of his desire to promote Jackson's public reputation, and he assured the president that he was willing to offer his advice "freely on subjects where I think it may be of use." Livingston then wrote:

Such a case now occurs. The message about to be delivered is one of no ordinary importance: it may produce war or secure peace. Should the French government be content to receive your last message, they will not do so until they have seen this. There should not, therefore, be anything in it unnecessarily irritating. You have told them home-truths in the first. You have made a case that will unite every American feeling on the side of our country. It cannot be made stronger, and to repeat it would be unnecessary. The draft you did me the honor to show me would make an admirable manifesto or a declaration of war; but we are not yet come to that. The world would give it that character; and, issued before we know the effect of the first message, it would be considered as precipitate.

The characteristics of the present communication ought, in my opinion, to be moderation and firmness. Our cause is so good, that we need not be violent. Moderation in language, firmness in purpose, will unite all hearts at home, all opinions abroad, in our favor. Warmth and recrimination will give arguments to false friends and real enemies, which they may use with effect against us. On these principles I

⁵⁴ Parton, *Life of Andrew Jackson*, III, 574-76.

have framed the hasty draft which I enclose. You will with your usual discernment determine whether it suits the present emergency. At any rate, I know that you will do justice to the motive that has induced me to offer it.⁵⁵

While no account is available of the process through which the terms of the message were finally worked out, it is certain that the ultimate tone adopted was due to the moderation which Livingston, Van Buren, and Forsyth urged upon the executive. The message was dated January 15, but was not delivered to the senate and house of representatives until January 18.⁵⁶

Jackson told congress that in pursuance of the promise made in his annual message of 1835 he was now laying before them "the final determination of the French Government." The replies which had been given to Barton by the French minister of foreign affairs compelled him to view it as a "peremptory refusal to execute the treaty except on terms incompatible with the honor and independence of the United States." The president reminded congress that France had already had explanations from the American minister which had been officially confirmed by him, and that confirmation transmitted to the French government in Livingston's note of April 25. Jackson affirmed that if France wanted "a degrading, servile repetition of this act, in terms which she shall dictate and which will involve an acknowledgment of her assumed right to interfere in our domestic councils," it would not obtain it.

The fact that Broglie's note of June 17 had been mentioned in some of the correspondence submitted with the

⁵⁵ Livingston to Jackson, January 11, 1836, in Hunt, *Life of Edward Livingston*, 428-29.

⁵⁶ *Register of Debates*, XII, Pt. I, 163.

message necessitated an explanation of the course pursued by the government in relation to it. The president told congress it was not an official note formally communicated to the secretary of state, but a private communication and as such he had refused to receive it. Later the French chargé had attempted to force a copy upon the secretary of state, but for "obvious reasons" it was not received. The correctness of the policy of the government "was made more manifest by the subsequent avowal of the French chargé d'affaires that the object was to bring this letter before congress and the American people."

The fact that France had strengthened its armaments in the West Indies and had collected naval forces "destined for our seas" was a matter of public notice. The necessity of providing for the public defense devolved upon congress, and necessitated, the president thought, "speedy appropriations for the increase of the Navy and the completion of our coast defenses." In closing, Jackson expressed again the hope that resort to coercive measures would not be necessary. He affirmed, however, his intentions of doing everything in his power to "preserve the pecuniary interests of our citizens, the independence of our Government, and the honor of our country."⁵⁷

It was admitted by practically all of the newspapers that the message was less violent than it had been feared that it would be. The *National Intelligencer* saw, in spite of all the "filing-down it has undergone, enough to indicate the temper, averse to a temperate course of measures which prevails in the Administration."⁵⁸ The Philadel-

⁵⁷ Richardson (ed.), *Messages and Papers of the Presidents*, III, 188-93.

⁵⁸ Washington *National Intelligencer*, January 19, 1836.

phia *Gazette* told its readers that its "tone and temper are anything but pacific." Its conclusion was that if the king of the French was as desirous for war as the president had shown himself to be, the country would find itself engaged in hostilities within sixty days.⁵⁹ Sentiments similar to these were expressed by most of the Whig newspapers.⁶⁰ James A. Hamilton was of the opinion that the message was warlike in tone and that it had caused much uneasiness in New York.⁶¹ Those journals which had supported the administration consistently found the message as mild as could be expected.⁶²

In congress the message was received with much oratory, most of which was favorable or only mildly critical of the administration. James Buchanan could not refrain from expressing his entire approval of the "general tone and spirit" of the message. He thought that under the circumstances no milder recommendations could have been made.⁶³ Thomas Hart Benton was bitter in his denunciation of the faithlessness of the French.⁶⁴ Calhoun raised his voice in condemnation of the entire policy of the administration and affirmed that if war resulted the United States would be the author of it. Clay contented himself with a motion to refer the message and accompanying papers to the committee on foreign relations.⁶⁵

⁵⁹ Philadelphia *Gazette*, January 20, 1836, quoted in Washington *National Intelligencer*, January 23, 1836.

⁶⁰ Quotations in Washington *National Intelligencer*, January 23, 1836.

⁶¹ Hamilton to Van Buren, January 20, 1836, in Van Buren Papers.

⁶² Washington *Globe*, January 19, 1836.

⁶³ *Register of Debates*, XII, Pt. I, 168-69.

⁶⁴ Thomas Hart Benton, *Thirty Years View; or a History of the Working of the American Government for Thirty Years, 1820-1850*, 2 vols. (New York, 1883), I, 588-600.

⁶⁵ Washington *Globe*, January 20, 1836; Bankhead to Palmerston,

The account which Jackson gave of Broglie's note of June 17, 1835, was an authentic history of the proceedings of the administration in regard to it. The opposition press immediately seized upon the rejection of the note as another indication of "the blundering diplomacy, the error in judgment, or the worse than error of temper, which induced the uncourteous rejection of an overture made by the French Government, during the recess of Congress, to the Government of the United States." ⁶⁶

Pageot had been trying to get a copy of the letter before the American people since November, 1835.⁶⁷ It is likely that in pursuance of this policy he had had communications with the editors of the *National Intelligencer* and with Henry Clay.⁶⁸ The chargé did not get a copy of the letter into print until just before his departure from America. At that time, under express orders from his government,⁶⁹ he placed a copy in the hands of a New York newspaper.⁷⁰ The opposition press professed to perceive that the note was written "for the express purpose of opening the way to a frank and friendly adjustment of what had become a mere point of etiquette between the two countries."⁷¹ The administration press centered its attack on the impropriety of the publication of the letter

No. 10, January 21, 1836, F.O. 5, America 306; *Register of Debates*, XII, Pt. I, 169 ff.

⁶⁶ Washington *National Intelligencer*, January 19, 1836.

⁶⁷ Pageot to Forsyth, December 1, 1835, in France: Notes to the Department of State, XI.

⁶⁸ Washington *Globe*, January 19, 22, 1836; *Register of Debates*, XII, Pt. I, 104.

⁶⁹ Palmerston to Henry Stephen Fox, No. 1, April 22, 1836, F.O. 5, America 307.

⁷⁰ Washington *National Intelligencer*, January 22, 1836.

⁷¹ *Ibid.*, January 23, 1836. Quotations from eight leading Whig papers support this view.

by Pageot.⁷² While the controversy over this letter was at its height the attention of the American people was shifted to the rumors which became more persistent that British mediation had been offered.

The official offer of British mediation was made to the secretary of state on January 27⁷³ and announced to congress on February 8.⁷⁴ In presenting the offer of mediation to Forsyth, Bankhead asserted that it was the desire of Great Britain "to preserve for other nations those blessings of peace which Great Britain is so desirous of securing for herself." He pointed out that the dispute affected two great powers, "both of which Great Britain is united to by the closest ties—with one of which she is engaged in active alliance; with the other of which she is joined by a community of interests and by the bonds of kindred." The chargé also averred that "the grounds of difference on the present occasion" would not reconcile "the friends and well wishers of the differing parties to the misfortune of an open rupture between them."⁷⁵

The reply of the secretary of state was dated February 3. The dispatch of Vail of December 30, announcing British mediation and giving a summary of the means which England proposed to use to bring about a settlement of the dispute, did not reach Forsyth until February 12. Thus the note to Bankhead was composed before the American government had any official information as

⁷² *New York Herald*, January 22, 1836; *Washington Globe*, January 22, 1836.

⁷³ Bankhead to Forsyth, January 27, 1836, in Great Britain: Notes to Department of State, XVIII.

⁷⁴ Richardson (ed.), *Messages and Papers of the Presidents*, III, 213-14.

⁷⁵ Bankhead to Forsyth, January 27, 1836, in Great Britain: Notes to Department of State, XVIII.

to the means which the British government proposed to use to bring about a reconciliation between the two states.

The note to the British chargé acknowledged "the disinterested and honorable motives which have dictated the proposal" of mediation. The secretary of state informed Bankhead that the pacific sentiments of his government were "congenial with the institutions and principles as well as with the interests and habits of the people of the United States." Forsyth then pointed out that the British government, at the time of instructing its representative to present the offer of mediation, was necessarily ignorant of the tenor of the presidential messages of December 7, 1835, and of January 15, 1836. If these documents had been in the hands of "his Britannic Majesty's Government," Forsyth thought that "it would have been fully satisfied that the disposition of the United States, notwithstanding their well-grounded and serious causes of complaint against France, to restore friendly relations and cultivate a good understanding with the Government of that country was undiminished, and that all had already been done on their part that could in reason be expected of them to secure that result."

The secretary of state reminded Bankhead that the execution of the treaty was delayed by the demand of France that the United States comply with a condition not laid down in the treaty. This condition was based on the supposed right of a foreign power to require an explanation of a presidential message which it deemed offensive. Forsyth strongly opposed this view and asserted that "the statements and recommendations of the President to Congress are regarded by this Government as a part of the purely domestic consultations held by its different depart-

ments—consultations in which nothing is addressed to foreign powers, and in which they can not be permitted to interfere, and for which, until consummated and carried out by acts emanating from the proper constitutional organs, the nation is not responsible and the Government not liable to account to other States.”

Forsyth thought that this view precluded the submission of “this point to the control of any foreign state.” But if after the “frank avowal” of these sentiments and the “explicit reservation of that point” the British government still believed “that its mediation can be useful in adjusting the differences which exist between the two countries . . . the offer of mediation” was cheerfully accepted.⁷⁶

On February 8 the president informed congress of the acceptance of mediation, with the reservation of “that point in the controversy which, as it involves our honor and independence, admits of no compromise.” He recommended that no action be taken regarding any measures of coercion until it was ascertained what the future policy of France would be. At the same time, however, he repeated an earlier recommendation by strongly urging upon congress the necessity of strengthening the national defenses.⁷⁷

The rumors, and finally the official announcement, that British mediation had been offered elicited many expressions favorable to its acceptance. The *National Intelligencer* was one of the first papers to express its approval of the offer.⁷⁸ The administration press was also favorable

⁷⁶ Forsyth to Bankhead, February 3, 1836, in Notes to British Legation, VI.

⁷⁷ Richardson (ed.), *Messages and Papers of the Presidents*, III, 213-14.

⁷⁸ Washington *National Intelligencer*, January 30, February 1, 1836.

to its acceptance.⁷⁹ Van Buren, in a private letter to Palmerston, expressed his appreciation of the step taken by Britain, and affirmed that the sentiments of the chief magistrate were of a conciliatory nature.⁸⁰ Judge Story expressed his belief that but for the "friendly mediation" of Great Britain "mad as the project may appear to you [Harriet Martineau], I fear we should have had war."⁸¹ Washington Irving wrote Van Buren that he hoped the United States would accept the offer.⁸² Philip Hone confided to his diary that "the war of etiquette . . . is in a fair way now of being averted."⁸³

A few days after Jackson had announced to congress the acceptance of British mediation, news reached the United States of the formal acceptance of that offer by France.⁸⁴ Two days later the comments of the London newspapers of January 4, which spoke of the "general belief . . . that the French Government is satisfied with the American President's message" were printed in the capital newspapers.⁸⁵ The official note announcing to the secretary of state that the "frank and honorable manner in which the President has expressed himself . . . has removed those difficulties upon the score of National Honour," was sent to Forsyth on February 15 by Bankhead.⁸⁶

⁷⁹ *Washington Globe*, February 1, 1836.

⁸⁰ Van Buren to Palmerston, January 30(?), 1836, in Van Buren Papers.

⁸¹ Story to Harriet Martineau, February 8, 1836, in Story (ed.), *Life and Letters of Joseph Story*, II, 227.

⁸² Irving to Van Buren, February 1, 1836, in Van Buren Papers.

⁸³ Tuckerman (ed.), *Diary of Philip Hone*, I, 196.

⁸⁴ Vail to Forsyth, December 30, 1835, in *Dispatches from England*, XLVIII; *Washington National Intelligencer*, February 13, 1836.

⁸⁵ *Washington National Intelligencer*, February 15, 1836.

⁸⁶ Bankhead to Forsyth, February 15, 1836, in *Great Britain: Notes to Department of State*, XVIII.

This note was immediately acknowledged by Forsyth,⁸⁷ and on February 22 the president transmitted to congress a message in which he informed them of the close of the controversy.⁸⁸

Even Jackson's bitterest enemies were forced to admit that his usual "good luck has attended him throughout this whole affair, wrong as he may have been at the commencement." Hone thought that the bad management of the French had placed Jackson on the vantage ground in every succeeding step "and circumstances have conspired to give him the power to trump the last trick and win the game whenever he pleased, without compromising his own pride or the national character."⁸⁹ The *National Intelligencer* did not think it necessary to congratulate the administration on the successful outcome of its diplomacy. This journal did, however, finally bring itself to the point where it could "heartily congratulate" its readers on the successful termination of the dispute. Its position was that the settlement of the controversy had been brought about in spite of the Jackson program.⁹⁰

Praise for the administration was not lacking. That portion of the press which had always supported the administration generally considered the successful outcome of the negotiations the more remarkable because of the hostile attitude of one branch of congress and the treasonable opposition of a portion of the press.⁹¹ Letters to Van Buren from Rives, Irving, and Roger B. Taney, expressed the

⁸⁷ Forsyth to Bankhead, February 16, 1836, in Notes to British Legation, VI.

⁸⁸ Richardson (ed.), *Messages and Papers of the Presidents*, III, 215-22.

⁸⁹ Tuckerman (ed.), *Diary of Philip Hone*, I, 198.

⁹⁰ Washington *National Intelligencer*, May 11, 1836.

⁹¹ *Niles' Weekly Register*, XLIX, 425, 441 (February 20, 27, 1836).

gratitude of these men over the favorable outcome of the controversy, and congratulated Van Buren for his "happy management" of the affair.⁹²

The major point in dispute between the two countries had been settled; however, there remained several minor but vexatious questions for the diplomats to adjust. Among these problems was the meaning of a phrase in a note which Serurier had addressed to the secretary of state before his departure. In this communication the phrase, "*le prétendu non-accomplissement des engagements*," was used. The translation of this document made the phrase read, "the pretended non-fulfillment of the engagements."⁹³ This translation, according to the secretary of state, conveyed the idea "that the Chief Magistrate knows or believes that he is in error, and acting upon this known error seeks to impose it upon Congress and the world as truth." Forsyth, considering this a direct attack upon the integrity of the executive, instructed Livingston to demand explanations from the French government in a "firmness of tone, not to be mistaken."⁹⁴

Upon the receipt of these instructions Livingston addressed a note to Broglie, in which he requested that the meaning of the phrase be explained. Up to the time of his departure from Paris the American minister had not received a reply to this note, but he had reason "to believe that the answer when given" would be satisfactory. The tone of his dispatch indicated that he thought the misun-

⁹² Rives to Van Buren, February 19, 1836; Irving to Van Buren, February 24, 1836; Taney to Van Buren, March 8, 1836, in Van Buren Papers.

⁹³ Serurier to Forsyth, February 23, 1835, in France: Notes to the Department of State, XI.

⁹⁴ Forsyth to Livingston, March 5, 1835, in Instructions to United States Ministers to France, XIV.

derstanding had arisen because of an unsatisfactory translation.⁹⁵ The correspondence regarding this controversy was laid before congress on January 18, 1836.⁹⁶ The *National Intelligencer* immediately declared the translation of the dispatch to be faulty and suggested that a proper answer to the demand for explanations would be a "dictionary."⁹⁷

When the main point in the controversy had been adjusted, the secretary of state requested the British chargé to secure the explanations demanded earlier by the American government. Bankhead in forwarding the request to his government expressed the opinion that the necessary explanations of Serurier's letter would be easy to obtain. It was evidently his impression, also, that the difficulty had arisen because of a poor translation.⁹⁸

On receipt of Bankhead's dispatches the English government immediately undertook to secure the desired explanations from Paris. The misunderstanding of the expression in Serurier's note, the French minister of foreign affairs asserted, was due to a poor translation. The French translated "prétendu" to mean "alleged" or rather "alleged without sufficient foundation" but the French government disclaimed any intention of implying "that the Party making the allegation" believed "in the truth of the allegation made."⁹⁹ This explanation was immediately

⁹⁵ Livingston to Forsyth, June 29, 1835, in Notes from Ministers to France, XXVII.

⁹⁶ Richardson (ed.), *Messages and Papers of the Presidents*, III, 208 ff.

⁹⁷ Washington *National Intelligencer*, January 25, February 5, 8, 1836.

⁹⁸ Bankhead to Palmerston, private, February 21, 1836, F.O. 5, America 306.

⁹⁹ Palmerston to Fox, No. 1, April 22, 1836, F.O. 5, America 307.

transmitted to Washington and was received as "absolutely satisfactory" by the American government. The president requested that the new French minister on his arrival address an official note to the department of state making the explanation.¹⁰⁰

A second minor issue was over the publication of the Duke de Broglie's note of June 17, 1835. The administration had regarded it as a breach of diplomatic etiquette, and the action had certainly brought some embarrassment to the Jackson party. This resulted in the demand for a disavowal of Pageot's action. When this demand was presented to the French government it developed that it could not repudiate Pageot's action as it had been taken at its express direction. It appeared that the purpose of the government was to make known through the publication of the note the pacific attitude of the French government.¹⁰¹

In discussing this affair with Palmerston, Vail found that the English government took the attitude that France had "knocked under" to the United States on the main point in dispute, and the foreign minister felt that "it would be more generous not to press her too hard for further concession respecting which no serious difficulty could be apprehended." Palmerston thought that the best policy would be to request the explanations of the French minister when he should reach Washington.¹⁰²

The American government was not pleased with these explanations. Forsyth told Henry Stephen Fox, who had

¹⁰⁰ Fox to Palmerston, No. 10, June 11, 1836, *ibid.*

¹⁰¹ Palmerston to Fox, No. 1, April 22, 1836, *ibid.*

¹⁰² Vail to Forsyth, March 22, 1836, in *Dispatches from England*, XLIII.

taken up the duties of British minister, that the public generally considered it as a mark of disrespect toward their government and "as a scheme to show them up to their own people." The secretary of state informed the British minister that conduct of this kind in the future would result in the breaking off of diplomatic relations, and a promise was exacted of the new French minister that it would not be repeated.¹⁰³

The appointment of diplomatic agents who would be mutually acceptable to the countries concerned was another problem that engaged the attention of the governments. Jackson was well pleased with Livingston's work in France and desired to reappoint him. Forsyth asked Fox to ascertain whether or not the reappointment of Livingston would be satisfactory to France. He also informed the British minister that the American government did not desire to have Serurier return, and if the French government objected would not reappoint Livingston.¹⁰⁴

Before this note reached London, Lord Palmerston had written Fox that the French government considered that the best method of renewing friendly relations would be the appointment of entirely new diplomatic representatives, simultaneously by each of the countries.¹⁰⁵ Upon receipt of Fox's note of the fifth, the British foreign minister immediately replied instructing him to inform Forsyth that it would be "by no means agreeable to the French Gov't" to have Livingston reappointed. Palmerston suggested that the best mode of procedure was for

¹⁰³ Fox to Palmerston, No. 10, June 11, 1836, F.O. 5, America 307.

¹⁰⁴ Fox to Palmerston, No. 4, April 5, 1836, *ibid.*

¹⁰⁵ Palmerston to Fox, No. 1, April 22, 1836, *ibid.*

each state to appoint new ministers as had been recommended in his dispatch of April 22.¹⁰⁶

The death of Livingston on May 23, 1836, removed any possible contention that might have arisen from Jackson's desire to reappoint him. The secretary of state informed Fox, however, that Jackson would have acted in conformance with the wishes of France in the matter even though Livingston had lived. The British minister was also told that the president would appoint a minister for the French post before the end of the then existing session of congress. The new minister would go to Paris as soon as word had been received in Washington of the appointment by France of a minister to the United States.¹⁰⁷ President Jackson nominated Lewis Cass, who was then secretary of war, for the French mission. This nomination, made on June 28, was accompanied by the reservation that Cass was not to be commissioned until official notice had been received in Washington of the appointment of a minister by the government of France.¹⁰⁸

Unofficial advices were received in Washington about September 26 of the appointment by the French king of Edouard Pontois to the Washington post.¹⁰⁹ Cass was very anxious to get across the Atlantic before the coming of winter. Because of this fact he was permitted to sail for England, where he was to await official confirmation of the appointment of a French minister to the United States. On his arrival in London, Cass was informed by Palmerston that France had complied with the conditions laid

¹⁰⁶ Palmerston to Fox, No. 2, April 28, 1836, *ibid.*

¹⁰⁷ Fox to Palmerston, No. 10, June 11, 1836, *ibid.*

¹⁰⁸ Richardson (ed.), *Messages and Papers of the Presidents*, III, 230.

¹⁰⁹ *Washington Globe*, September 26, 1836.

down for the renewal of diplomatic relations. Upon receiving this information he immediately continued his journey to Paris.¹¹⁰

The first member of the French mission to arrive in Washington was Pageot, who returned to take up his old duties as *chargé d'affaires*. This appointment was entirely unexpected by the American government and the secretary of state said that if they had known of it in advance they would have objected. The first decision of the president was not to receive him, but the British minister intervened and succeeded in bringing about his reception.

It seems that the success of Fox was made possible because of the fact that the executives of the two countries had been made the victims of a private intrigue. Major William B. Lewis, desiring the return of Pageot, his son-in-law, had conspired with Cass to secure from the president in a private conversation some expressions of friendship and high consideration for the French *chargé*. These remarks were immediately transmitted to Paris in such a form that the impression was given Louis Philippe that Jackson desired the reappointment of Pageot. But the president, aware of the delusion that had been practiced, felt that the honor of his country was at stake and was ready to send Pageot home in spite of the consequences which such an act might entail. While the affair was in this state, Fox intervened and persuaded the American government to receive the French appointee.¹¹¹

In the transference of the money to satisfy the provisions of the treaty, it developed that there was a difference

¹¹⁰ Andrew Stevenson to Forsyth, November 29, 1836, in *Dispatches from England*, XLIV.

¹¹¹ Forsyth to Lewis Cass, December 10, 1836, in *Instructions to United States Ministers to France*, XIV.

between what the fiscal agents of the American government calculated was due and what the French treasurer was prepared to pay. This difference arose from the fact that the American government expected compound interest to be added to the payments past due. The French resisted this demand but eventually agreed to pay simple interest. The acceptance of this concession by the American government brought the controversy to a conclusion.¹¹²

The quarter of a century, during which the spoliation claims were the principal issue of Franco-American diplomacy, made evident certain factors important in the conduct of international relations. Probably the most interesting revelation is the predominant influence of the president's personality upon the conduct of foreign relations. The difficulty of a democratic legislative body in divesting itself of partisan politics in dealing with international questions is also apparent. The intensification of bitterness over a comparatively unimportant issue as a result of a constant stimulation of differences might have brought the two nations into conflict. The slowness of communication, which gave public opinion an opportunity to forget the differences, the influence of a group of conservative advisers, and the existence of other international issues of more consequence combined to act as successful preservers of the peace.

¹¹² Asbury Dickins (acting secretary of state) to Cass, October 7, 1836, *ibid.* Molé to Charles E. Anderson, July 31, 1837, in Notes from Ministers to France, XXVIII; and Forsyth to Anderson, June 27, 1838, in Instructions to United States Ministers to France, XIV.

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